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Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General

Fourth Session, 32nd Parliament Wednesday, May 23, 1984

JUN 7 - 1984 4

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, May 23, 1984

The committee met at 10:05 a.m. in room 151. After other business:

10:12 a.m.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

Mr. Chairman: We are here today to review the estimates of the Ministry of the Solicitor General, referred to our committee on May 17, 1984, by the Legislative Assembly. The time allotted for the estimates is eight hours. Does the minister have an opening statement?

Hon. G. W. Taylor: Yes, Mr. Chairman, I have.

Before commencing with the opening statement, you will see seated with me today two people, the Deputy Solicitor General and my director of finance. They are here to offer assistance today.

As I understand your committee, the normal procedure is for the minister to make an opening statement and then for the two critics to make their opening statements or replies, or whatever descriptive label they want to put on them, which will probably use up most of this morning. As we proceed through the estimates, I will bring forward the different people who are in charge of the various programs so the critics may, if need be, ask them questions or receive information from them as the votes proceed.

I thought it would be a more judicious use of time if we did not have those individuals, all of whom have work components in their everyday life, residing in the room with us while we are doing our work procedures. So they will not be here this morning, if that pleases the committee and the members of the committee.

Mr. Chairman: Minister, I think that will be quite adequate. I would like to ask you to identify the Deputy Solicitor General as well as your finance director.

Hon. G. W. Taylor: Roderick McLeod is the Deputy Solicitor General, and Lorne Edwards is director of the financial services branch.

Mr. Chairman: With that, minister, I think you can proceed.

Hon. G. W. Taylor: A printed copy of the opening statement has been distributed to the members of the committee.

Mr. Renwick: And the press?

Hon. G. W. Taylor: Undoubtedly the media will have a copy of this. I would not want to keep any of the good works of the Ministry of the Solicitor General a secret only unto this committee.

Times have been very active for the Ministry of the Solicitor General since the committee last met about a year ago to consider these estimates. There is much to discuss, and I look forward to the contributions and suggestions to be offered by members of the committee in the days ahead.

Despite the confines, albeit necessary, of the government's constraint program, we have been able to forge ahead with a number of important initiatives and some significant pieces of legislation, and more are in the works. As we proceed with our discussions, I am sure the members of the committee will be able to make some creative suggestions.

First, I would like to express my appreciation and pay tribute to one important individual who served the ministry and the province so ably. I refer to the former commissioner of the Ontario Provincial Police, James Erskine, who retired late last year. Former Commissioner Erskine was a fine and dedicated officer, a leader who carried on in the tradition of his distinguished predecessors. We in the ministry are delighted that he will continue to serve his province as chairman of the Premier's interministerial committee on drinking and driving.

At the same time we are equally delighted to have a successor of the calibre of Commissioner Archie Ferguson, a career OPP officer and a leader who is well equipped to lead the force as it faces the challenges of the 1980s. Commissioner Ferguson, a native of Walkerton, has been a member of the OPP for 33 years. During his career he has covered every aspect of police work and is ideally suited for the leadership role as the OPP enters a new era.

This is the 75th anniversary of the Ontario Provincial Police, and the residents of Ontario have every reason to be proud of the role the force has played in the history of the province. Having grown from its original complement of 45 men, the force is now present in almost 200 communities, and during this anniversary year, in combination with Ontario's bicentennial, many

of the anniversary activities involve people in the communities that the OPP polices.

The challenges facing us in the fields of law enforcement and public safety as we proceed towards the middle of this decade certainly are not diminishing. Indeed, the challenges are more formidable than ever, given their diversity and the fact that the necessities of the economy dictate that we continue to operate in periods of severe constraint.

We will continue to emphasize efficiency and productivity within the ministry, and we will continue to assist police officers, firefighters and others under the ministry's umbrella to meet the challenges. The fact that these groups continue to increase their productivity within the constraint program speaks for itself. To continue to do so, of course, requires the assistance of the public in greater and greater numbers, and the signs there are also very encouraging as our citizens assume more and more responsibilities in greater and greater numbers. With the committee's indulgence I will get into that in a little more detail later on.

10:20 a.m.

We have budgeted in this ministry for \$306,623,000 for this fiscal year. That is an increase of about \$12.4 million, or 4.2 per cent, over the fiscal year just past. The breakdown of the increase is as follows:

- 1. Salary and employee benefit awards approved in the amount of \$8.2 million. This represents the salary and related employee benefit awards negotiated with the Ontario Provincial Police Association and the Ontario Public Service Employees Union during the 1983-84 fiscal year.
- 2. Salaries, employee benefits and related operating costs of \$2 million for an additional 60 OPP constables. This will provide the OPP with an improved ability to provide two-member patrols in isolated areas between midnight and 6 a.m. and backup in risk-call situations.
- 3. Resources to staff and operate the expanded facilities at the Ontario Fire College in the amount of \$925,000. This represents funds approved to provide staffing, equipment and operating expenses for the new facility constructed at Gravenhurst. This includes an additional staff of 12, equipment purchases and operating costs.
- 4. The amount of \$400,000 for increased maintenance costs for the existing OPP radio communication system. The existing system was implemented in 1947 and the increase represents

mainly replacement of obsolete equipment and repairs that have now become essential.

- 5. The amount of \$400,000 for increased resources for systems development staff. This represents funds approved for a systems development staff based on a study of ministry information technology.
- 6. Miscellaneous inflationary increases account for \$467,600 of the ministry's increased budget. This would include such areas as telephone rates, cost of vehicles and their repair and maintenance, cost of food services and other normal items such as we all face in maintaining our homes and businesses.

It should be noted that salaries and related employee benefits total more than \$227.7 million and account for 74.3 per cent of the total ministry budget. Total budgets by program are: ministry administration, \$6,712,000; public safety, \$29,936,800; policing services, \$10,730,400; and Ontario Provincial Police, \$\$262,244,200.

Committee members know that the majority of the funding from the Ministry of the Solicitor General goes towards maintaining the operations, management and support of the Ontario Provincial Police. It is worth repeating that the OPP is the fourth largest deployed force in North America, with more than 5,000 uniform and civilian personnel. There are currently 182 OPP detachments plus five summer detachments throughout Ontario. The detachments range from Kenora to Hawkesbury and from Windsor to Long Sault.

The OPP police provincial highways, county and township roads and almost all of the 174,000 square miles of Ontario waterways. In addition, the force provides policing services to a number of municipalities on a contract basis and frequently renders assistance to other police forces in the form of both manpower and equipment.

The OPP's total budget for this fiscal year has been increased by 3.3 per cent. Wages and benefits comprise approximately 78 per cent of the force's budget.

The implementation of the first major reorganization of the force in more than a decade, which took place in 1983, has now been substantially completed. It structurally aligned the force into three parts—administration, field and investigations—each managed by a deputy commissioner. These parts are further broken down into seven divisions. Each of these divisions is administered by a chief superintendent.

The purposes of the organization changes were to clarify and simplify lines of communication and decision-making commensurate with the demands of our modern society. The province is currently divided into 16 OPP districts, each commanded by a superintendent who is assisted by one or more inspectors. Each district is further divided into several detachment areas, most of which are headed by a member of noncommissioned rank.

We can see by the numbers that the force has had another busy year, although there was a slight decline in the number of nontraffic criminal occurrences. The total was 91,616 actual nontraffic criminal occurrences in 1983, a decrease of 3.4 per cent over 1982. However, crimes against persons increased by 10 per cent and homicide offences increased by 17.7 per cent, from 45 in 1982 to 53 in 1983. Crimes against property decreased by 6.4 per cent.

During 1983 the force laid 42,821 Criminal Code nontraffic charges, plus 16,019 Criminal Code traffic charges. Almost 380,000 charges were laid under the Highway Traffic Act and Ontario regulations related to traffic enforcement. More than 4,000 charges were laid under federal statutes other than the Criminal Code, and more than 428,000 charges were laid under Ontario's provincial statutes. Traffic and liquor cases accounted for more than 95 per cent of the work in this category.

In the traffic area, the number of accidents decreased by 2.2 per cent, but fatal accidents were up by 3.7 per cent while personal injury accidents were about the same. Accidents investigated by the OPP involved 774 deaths and injuries to more than 28,000 others.

While on that subject, I would like to add that the OPP as well as other police forces around the province will continue to give a high priority to the war against the drinking driver. Indeed, Commissioner Ferguson has already sent individual letters to members of the force commending them for their efforts in the past and reminding them that the summer period, particularly holiday weekends, is the peak accident period. A similar message of encouragement and support to municipal forces from myself was sent out through Shaun MacGrath, chairman of the Ontario Police Commission.

The number of injuries and deaths caused by drinking drivers has now reached the point where it accounts for more than 50 per cent of all driver deaths. Traffic accidents are the fourth leading cause of death in Canada and the number one killer of people under the age of 30. Every day in this province, according to statistical analysis, two people will die in vehicle accidents in which

alcohol is involved; 81 more will be injured, some maimed for life.

The public attitude towards drinking and driving is changing, thank heavens. Now, more and more of our citizens are coming to regard the action of some drunk who uses an automobile as a three-ton missile of death and destruction as a reprehensible criminal act. No public safety threat is more serious than the one posed by the drinking driver, and no area of criminal activity—and make no mistake about it, drinking and driving is a criminal activity—has left more victims and caused more anguish.

Surely, faced with all these realities, there can be no question that the tragedy caused by drinking and driving is quite simply unacceptable in a society such as ours. None of us should be willing to tolerate such an enormous waste.

On the topic, I am encouraged by the success of the 12-hour licence suspension program as it is reflected in OPP statitics. Members of the committee will recall that when the legislation was passed, some members expressed concern about its effectiveness and how it would be accepted by the public.

I have said that this particular law is preventive in nature rather than punitive. It is designed to save lives by getting the marginally impaired driver off the road, and it does appear to be working. Last year the OPP issued more than 7,600 temporary suspensions through the use of 350 alcohol level evaluation roadside testers or portable breathalyser units throughout Ontario. There has been a negligible number of complaints from the public, even from those who have had their vehicles towed away.

Another point of interest, before leaving the traffic area, concerns the use of seatbelts. The force laid almost 40,000 charges against those failing to buckle up last year, an increase of almost 30 per cent over 1982. Again we have a law which I call preventive in nature and one which has been a proven lifesaver since it was passed by the Legislature a decade ago.

Nevertheless, substantial numbers of our citizens still fail to use seatbelts, placing added risks on themselves and others, increasing the odds of serious injury in an accident and substantially escalating health costs, which of course are borne by all of us. I know we can count on continued support from all sides of the Legislature in our efforts to convince motorists that buckling up is the only way to travel.

10:30 a.m.

Turning to another subject, there were 11 industrial disputes that required Ontario Provin-

cial Police attention last year. None of those was classified as major from the viewpoint of police involvement; they were monitored to ensure preservation of the peace.

It is worth repeating that the force does not attend at the scene of industrial disputes unless there are reasonable grounds to believe there will be breaches of the law. Every effort is made to assign the appropriate number of personnel who will attend at the scene of the dispute to maintain order.

The members at the scene are also mindful of the fact that they walk a narrow line and must not indicate to either side any suggestion of favour or ill will. The force commander at the scene will always explain to both management and labour the reason for the officers' presence. As I have said in the past, police officers are neither pro-management nor pro-labour but are on the scene to enforce the law and ensure the safety of the public and of the people involved.

Turning now to another area, the Ontario Provincial Police continues to play a key role in the police campaign against organized crime, an area of concern not only to the force but also to the Ontario Police Commission and to all other forces in Ontario as well as the rest of the country.

During 1983 the OPP participated in numerous joint force operations, both formal and informal, throughout the province. Many of these investigations were successfully directed against those engaged in organized criminal activity and their associates with excellent statistical results. Some of these investigations are continuing in 1984.

Some of the statistics supplied by the Criminal Intelligence Service Ontario to the Ontario Police Commission do serve to illustrate what is common knowledge in law enforcement jurisdictions: that Ontario police are as successful as those in any other jurisdiction in North America in the fight against organized crime.

For those who are not aware—I will just go off the text here a bit—the Criminal Intelligence Service Ontario is a group of individual police officers from the various forces who have grouped together to exchange intelligence information and work as a body against organized crime and other criminal activities. It has the involvement of most of the major forces in Ontario, the Ontario Provincial Police and the Royal Canadian Mounted Police.

The number of persons arrested whom Ontario police forces were able to identify with organized criminal activity totalled more than 2,200. The number of Criminal Code charges came to almost

6,000. The types of charges included fraud, theft, assault, arson, drugs, attempted murder, conspiring to commit murder, kidnapping, prostitution, gambling, pornography, armed robbery, break and enter and smuggling.

The dollar amount of recovered property was more than \$7 million. This includes stolen cars, tractor-trailer units, motorcycles, television sets, videocassette recorders, videotapes, computer terminals and parts, jewellery and cigarettes. The street value of the illegal drugs recovered amounted to almost \$59 million. More than 400 firearms were recovered.

In the field of organized criminal activity I include the clandestine activities of some members of the motorcycle gangs that plague not only Ontario but many other North American jurisdictions. Police are not about to allow motorcycle gang members to ride roughshod over the criminal justice system in Ontario under any circumstances. Ontario police officials assigned to monitor the activities of motorcycle gangs, especially their organized criminal activities, advise me it is a matter of very high priority for the criminal investigation and criminal intelligence branches of the police forces in this province.

The police community in Ontario will also continue to show leadership in combating such fields of organized criminal activity as pornography, drug trafficking and smuggling.

Having said that, I do not wish to minimize the challenges or problems posed to our police community by those involved in organized criminal activity. It is a cause for continuing concern to the ministry, the Ontario Provincial Police and all of those in the police community involved in combating the problem. In the past the CISO has estimated profits in the field of organized criminal activity at more than \$9 billion annually. Still, our numbers indicate we can make inroads against those engaged in this particularly abhorrent activity. Statistics themselves do not properly reflect the valuable intelligence information gleaned on organized criminal activities and interests.

There are those who have called publicly for a royal commission into the activities of organized crime in Ontario. Both myself and my colleague the Attorney General (Mr. McMurtry), having conducted extensive consultations with police authorities and crown law officers, feel that such a commission would be counterproductive.

I met recently with representatives of the Ontario Association of Chiefs of Police, including Commissioner Ferguson, Mr. MacGrath, chairman of the Ontario Police Commission, and Deputy Solicitor General Rod McLeod, along with officers whose job it is to monitor organized criminal activity. They were unanimous in emphatically rejecting a royal commission or some other form of public inquiry into organized criminal activity.

Their reasons included: The investigation of criminal offences perpetrated by organized crime figures in order to bring them before the courts is the most effective method of combating organized criminal activity in Ontario; it has been demonstrated at similar hearings in other jurisdictions that testimony often reveals to organized crime, police sources and investigative techniques; organized crime figures often come out of such hearings with a larger than life criminal mystique, which enhances their ability to generate fear in some communities, and ongoing police criminal intelligence gathering and investigations would be jeonardized.

In an effort to combat the influence of organized criminal activity, new investigative strategies are constantly being developed by the Ontario Provincial Police in concert with other forces in the province and across the continent, even around the world. The justice community in this province continues to believe it is a more desirable and a more productive route than some form of public inquiry which police officers feel, in the long run, would serve very little useful purpose.

I would like to spend some time today discussing the OPP telecommunications project, which has caused concern to the Provincial Auditor as well as myself. Some background on the telecommunications setup might be in order.

As I indicated earlier in this statement, the present OPP telecommunications system has evolved from a system initially established in the late 1940s, which provided basic communication between radio-equipped police vehicles and their offices. As the size of the force and the number of detachments increased, mobiles and towers with associated equipment were added. The result was increased demands on the radio system and mutual interference in many areas.

With the introduction of the Canadian Police Information Centre, CPIC, in the early 1970s, more traffic was generated in the radio system through queries in the field. Personnel costs associated with radio dispatching also experienced a simultaneous and dramatic increase.

By the mid-1970s, it became apparent the OPP radio network would not meet, or could not be modified to meet, the existing and future needs of

the OPP. As such, it was decided to embark upon the development of a new telecommunications system. The new OPP telecommunications system will use centralized radio dispatching on a district basis, rather than the distributed concept currently employed where radio dispatching is essentially a detachment level responsibility.

It is the view of the ministry that the new telecommunications system will meet the following key objectives: to provide interference-free communications where and when required; to enhance the availability of police services; to make better use of human resources; to provide access to the Ontario Police Commission common channel; to enhance tactical ability for disasters; to increase the extent of coverage of the telecommunications system significantly, and to decrease maintenance costs.

10:40 a.m.

Given the demonstrated need for the new system, the Management Board of Cabinet, on January 29, 1980, approved a request from the ministry for an amount of \$24.4 million. Two years later a contract was awarded to Motorola in the amount of \$20.1 million and that was increased due to design changes.

Commitments were also made to other suppliers and other expenditures were incurred for modifications and land acquisition. In August 1982, some 33 months after the original Management Board approval, a further application and a report to Management Board were prepared, which reported a revised estimate for the system of \$54.4 million.

As a result of my own initiatives and those of the Chairman of Management Board, an Ontario Provincial Police telecommunications project review committee was established to review the circumstances surrounding the revised project estimate. The project review team was supported by an audit team as well as a technical advisers' team, which estimated the total cost at between \$66 million and \$71 million.

I forwarded the result of this study to the Provincial Auditor on December 9, 1982. A report was made to Management Board less than a week later and a cabinet minute was issued. This minute requested that the ministry establish a project team to take charge of the project, and this has been done, with Mr. D. Scott Campbell as general manager.

The major question raised is why there has been a major increase in cost estimates. It is primarily because there was not sufficient engineering and design work done prior to the \$24.4-million estimate being established. To

prevent this happening again we are developing the implementation alternatives report.

To summarize, we are ensuring that appropriate administrative financial and project management procedures are now being followed. The decisions are being accurately documented. Senior management at the ministry is being adequately informed. Appropriate steps have been taken to provide the necessary information to myself, my deputy minister, and through us to Management Board, to ensure that we have an accurate picture of the total cost of the system. All realistic alternatives for the implementation of the rest of the system are being explored.

Finally on the subject, the project team should be in a position to finalize an estimate of the project by early next year.

Mr. Boudria: Mr. Chairman, for my own information, is your new program of French language services elsewhere in that speech or are you finished with the OPP now?

Hon. G. W. Taylor: As I recall, it comes later on in the material. Yes. We have something on the French language services later on in the opening statement.

Mr. Boudria: It is just that you were going to change topic now from the topic of the OPP French language services.

Hon. G. W. Taylor: No, the French language services are a ministry scale, so it would be later on, under the ministry—on page 47, I have been informed.

Mr. Boudria: Fine.

Hon. G. W. Taylor: Turning now to the activities of the Ontario Police Commission, I am pleased to report that the commission under Chairman Shaun MacGrath had a busy and productive year. Members will know that the commission operates the Ontario Police College, conducts special surveys and in-depth studies on behalf of our police community, and inspects and audits police forces. It provides technical services, including advice and assistance to police forces in the application of modern computer and communications technology. It also oversees the CPIC system in Ontario for wanted persons and stolen vehicles or property.

In the commission's inspectorate division, a chief and five services officers provide comprehensive advisory services to police forces in Ontario on all facets of police work. All 127 municipal police forces received some form of contact from the inspectorate branch over the year and 109 forces received formal inspections.

In addition, inspectorate personnel were engaged in several investigations into the conduct or performance of duties of members of municipal police forces, as well as the administration of some police forces and the police needs of a number of municipalities.

The administrative technology section of the commission carried out seven work-load resource studies to supplement the inspectorate services officers in their activities in assisting municipal police forces. Improvements added to the system during 1983 facilitated a complete analysis of patrol officer activity. In the majority of police force studies the system results in recommendations for the improved utilization and containment of manpower.

On another topic, some members of the committee will recall the demonstration before the committee of the new safety holsters. The holsters, commented on favourably by Judge John Greenwood, are designed so that a revolver cannot be removed from the holster except by the person wearing the holster. Through the use of a locking mechanism, the firearm will not be dislodged during the pursuit of a suspect or during a scuffle.

The design of these new holsters, however, requires that the butt of the revolver be exposed to public view. The holsters were therefore unavailable to police in Ontario by virtue of a regulation that provides, "The revolver shall be carried in a holster with a full flap cover or be otherwise concealed." I had that regulation amended and already 55 police forces, including the Ontario Provincial Police, have adopted the new safety holster. I think most of the committee members approved of the display that was presented last year and of the design of the holster.

During 1983, the commission continued its program of monitoring police pursuits. The number of pursuits declined by 129 over the previous year, a drop of 7.5 per cent. Four civilians and one police officer were killed in police pursuits last year, compared to 11 civilians killed in 1982. A total of 288 pursuits were abandoned in 1983, representing almost 18 per cent of the total commenced.

I would emphasize to committee members that no one likes police pursuits, least of all the officers involved. We can only attempt to minimize the danger by having them exercise as much caution as possible and through defensive driving courses, such as the one taught at the Ontario Police College. The commission has developed a comprehensive set of guidelines for

police pursuits and this may have been partially responsible for the decline in numbers.

Another field in which the Ontario Police Commission has been active is that of crime prevention. As a result of a resolution passed by the Ontario Association of Chiefs of Police at its conference in 1983, a crime prevention liaison officer for the police forces of Ontario was appointed by the Ontario Police Commission effective November 1, 1983.

As a provincial co-ordinator of crime prevention programs, he is responsible for: (1), assisting with all crime prevention courses at the Ontario Police College; (2), visiting police forces across Ontario to provide assistance in developing and initiating crime prevention programs; (3), assessing and evaluating existing crime prevention programs; and (4), researching crime prevention programs in other jurisdictions with a view to introducing the most effective ones in Ontario.

To this date, the co-ordinator has visited 28 police forces in the province, attended five zone meetings of the Ontario Association of Chiefs of Police, attended and conducted 10 meetings with related organizations in crime prevention and assisted in developing three crime prevention officer courses at the Ontario Police College.

In order to identify the needs of police forces in the province for the development of comprehensive programs of crime prevention, a needs assessment survey is being conducted. The needs assessment survey will be completed shortly, and we hope to have the results compiled and circulated by the end of June. Also in 1984, a number of crime prevention seminars will be conducted in selected areas of the province to promote police forces as catalysts for community-oriented crime prevention programs.

I want members of the committee to know that development of a comprehensive crime prevention policy is a priority item for this ministry. If we are to utilize the limited resources available to the police community in these times of constraint the assistance of the public is essential. As Sir Robert Peel, the founding father of the modern police force, put it, "The police are the public, and the public are the police."

What is tremendously encouraging to us in the ministry and to the police authorities around the province is the willingness of our citizens to meet the challenge. More and more of our people are coming to realize how important the word "public" in public safety is. Citizens' groups such as PRIDE, People to Reduce Impaired Driving Everywhere, and ADD, Against Drunk

Driving, are making invaluable contributions in changing the public attitude towards drinking and driving. Neighbourhood Watch programs are springing up all over the province, with marked success in reducing the crime rate in some areas.

We in the Ministry of the Solicitor General plan to give further direction to citizens' involvement with their police departments and I have asked both the Ontario Provincial Police and the Ontario Police Commission to accelerate their efforts even further in this vital area. We have a working committee within the ministry developing new initiatives and more officers are being seconded to help with the crime prevention programs. As a result, I expect to be able to announce some major new initiatives in the field of crime prevention shortly.

10:50 a.m.

In the related field of assistance to victims of crime, the ministry also has been active in the past year. We have been developing programs and courses at the Aylmer Police College to better equip officers to deal with the questions and concerns raised by the victims of crime.

Also, we have initiated police-oriented victim assistance in four Ontario cities as a pilot project which we can expand into other areas of the province if it proves its effectiveness. Police officers on these forces—Waterloo regional, London, Hamilton-Wentworth and Timmins—are participating. They have been issued pamphlets entitled Help For Victims—You Are Not Alone, which are being distributed to victims of crime by the investigating officers.

The pamphlet has a space for the investigating officer's name and badge number, the police force telephone number and the file case number of the occurrence to make it easier for the victim to get information about his or her case. It also contains space for contacts that may be of service to the victim, such as the Salvation Army, children's aid society or sexual assault crisis centre. The pamphlet also explains that the victim's needs are a major concern to the police officer in addition to his responsibilities to enforce the law.

Also, the ministry is very sensitive to the critical issue of violence against women, and I and my colleagues in the Justice policy field have undertaken a number of initiatives in continuing to deal with the problem. Through the Ontario Police College and other avenues, police are being trained in the need for sensitivity in dealing with cases of sexual assault, and there is an acceleration of women police officers in the

criminal investigation field to help in the investigation of such crimes.

The Ministry of the Solicitor General participates in the funding of rape crisis centres. I have participated in a number of seminars and programs involving the victims of violence. We recognize that it is important that we compile reliable statistics to evaluate policy. We are working with the women's directorate and the Ministry of the Attorney General in developing a reporting form which will enable us to better gather and monitor information from police forces.

As members of this committee are aware, the Ministry of the Solicitor General is undertaking a major revision of the Police Act. The revision will be designed to modernize and update the act. Bringing forward a new act must necessarily be a comprehensive and thorough process.

The revision is being approached in two stages. The first stage involves extensive consultation with concerned client groups such as the Ontario Association of Chiefs of Police, the municipal police authorities, the Police Association of Ontario and the Association of Municipalities of Ontario. This first stage is nearing completion. The second stage involves introduction of the bill.

I would emphasize, however, that this ongoing review process has not prevented us from amending the Police Act when it was necessary. For example, amendments have been made in the last year enlarging the size of police commissions in larger municipalities and removing the mandatory requirement that a judge sit on the regional and metropolitan police commissions. In fact, new appointments of judges are specifically prohibited.

Our ministry has also been reviewing the Private Investigators and Security Guards Act. It is our intention to produce a more comprehensive and precise regulatory scheme. The security industry has both grown and changed in recent years. It is therefore important that the governing legislation be altered to meet that changing situation. Specifically, we will be coming forward with amendments on the inspection, investigation, enforcement and licensing procedures of the act.

I would also like to mention to the members two major concerns vis-à-vis initiatives which I believe should be undertaken by the federal government without delay.

Recently I wrote to Mr. Kaplan, the federal Solicitor General, asking for the tightening of gun control legislation. I also drew to his

attention the grave concern of law enforcement agencies in regard to the ready and uncontrolled availability of air guns that closely resemble prohibited, restricted and nonrestricted firearms. In the letter, I urged Mr. Kaplan to consider the feasibility of amending a section of the Criminal Code which would greatly reduce the allowable velocity of those potentially dangerous weapons and yet not curtail their designed or intended use.

I also informed Mr. Kaplan that we do not want to become a dumping ground for the importation of military weapons, many of which have been declared surplus by the military forces of some Third World countries.

There is also available to the general public an assortment of shotguns and rifles specifically designed for use by the military or police-for example, the pistol-grip shotgun. No doubt a prohibition against the importation of military weapons such as the one the United States of America has against importing weapons of war would go a long way towards resolving these problems.

Another admitted area of federal responsibility that causes concern to me and to my colleagues in the Justice secretariat is that of parole programs. It is time the federal government changed the law to reflect more realistically the concerns of our citizens, concerns that many hardened criminals may be released prematurely with what amounts for them to little more than a slap on the wrist. As Solicitor General I can attest to the very real discouragement of police officers who have spent a great deal of effort in seeing that violent and dangerous offenders were jailed only to see them back on the streets with only a fraction of the sentence served.

The public safety division of the ministry, under the direction of Assistant Deputy Minister Frank Wilson, has also had an active year. During 1983, for example, Ontario's 390 local coroners investigated more than 27,000 deaths, more than 40 per cent of all that occurred in the province. These involve not only sudden and unexpected deaths from accidents, suicides, homicides and natural causes but also those in different types of health care institutions. Apart from their duty to determine the circumstances of these deaths, Ontario coroners used information gained to promote health and safety for our citizens.

Local coroners, along with the full-time regional coroners, the chief coroner and the deputy chief coroner, conducted 226 inquests into a total of 253 deaths. Coroner's inquest juries made more than 1,100 recommendations

aimed at the prevention of deaths in similar circumstances.

Chief Coroner Dr. Ross Bennett and his staff distribute these recommendations to the appropriate persons, agencies and ministries. Indications are that more than half the recommendations have been accepted and are being implemented in some way. This high level of acceptance is a credit to the coroners, crown attorneys, police officers and citizens involved in our inquest system.

I wish to deal briefly with one aspect of investigation by the coroner's office, and that is suicide, namely, teen-age suicide. There have been published reports about the concern over the escalation of teen-age suicides in some jurisdictions. I can state emphatically to the members of the committee that there is no escalation in Ontario. In fact in 1983, teen-age suicides were

the fewest in the past 10 years.

The office of the chief coroner is also active in the organ donation program, which has given many of our suffering citizens literally a new lease on life. Organ donations increased in 1983, but more donations are urgently needed. There were slight increases in donations of eyes, kidneys and pituitary glands, and we are gratified by the increase. However, there is still a chronic shortage, and hundreds of people still await help.

Organ donation is particularly vital since Dr. Bennett tells me that the success rate for such operations as cornea and kidney transplants is now close to 90 per cent. Shortages in donations of eyes in Ontario remain constant at about 100, and 200 people are awaiting kidney transplants at

any given time.

I would urge all members of the committee to join me in promoting this vital program. By urging our citizens to sign the consent form on the back of their driver's licences or by signing organ donation cards, needless suffering can be alleviated.

The Centre of Forensic Sciences has a richly deserved reputation as one of the best facilities of this type in the world. Director Doug Lucas and his staff fulfil a critical function in the just and effective enforcement of the law and, as usual, the work load carried by the staff of the centre is indeed formidable.

11 a.m.

They examine evidence for use in court on behalf of law enforcement officers and members of the legal community; they provide education programs and materials for persons and agencies using forensic science services; and they conduct and encourage research to expand forensic science services. With all that, the centre still maintains a tour program and, in 1983, approximately 2,600 students toured the facilities of the centre.

Regarding case work load, the average number of cases per technical staff member in 1983 was 96. There was a one per cent overall decrease in the number of cases in 1983. The decrease was mainly in the chemistry section. The biology, firearms and toxicology sections experienced modest increases.

An increase in staff enabled the centre to decrease the backlog of cases on hand from about 1,100 to about 900, representing about six weeks of work load. In 1984, the centre will continue with a number of related initiatives, including training police officers in breathalyser use and research into drinking and driving and drug

We have some good news from the office of the fire marshal under the direction of John Bateman. When we look at the effort to minimize fire loss in Ontario, the picture is very encouraging. The total number of fires was 24,038, lower than it has been since 1976. The death rate has fallen to 1.7 fire deaths per 100,000 population. This is the first time it has fallen below the level of 2.0 per 100,000 and compares most favourably with the previous 10-year average of 2.9 per 100,000.

Despite inflation, even the per capita dollar losses are down from \$29.93 in 1982 to \$23.95 in 1983.

Mr. Williams: It was \$25.93 in 1982.

Hon. G. W. Taylor: Yes, \$25.93 in 1982 to \$23.95 in 1983. Pardon me if I said it incorrectly. I am reading from a brand new text which was retyped last night, so if I cannot get the storytelling inflection in there-

Mr. Boudria: You mean you did not type it vourself?

Hon. G. W. Taylor: No, I did not type it myself. It was retyped last night so all the paragraphing does not have my handiwork on it, where to stop and take breaths and where to give the modulated tone that possibly the Canadian Broadcasting Corp. would prefer, and that my children do when I read them bedtime stories.

To continue, there are many factors that influence these trends, and it is not possible to isolate and identify all of them. I feel it is reasonable, however, to credit the dedicated work of the fire marshal and his staff for such initiatives as the implementation of the fire code and the improved fire training and fire protection assistance for northern Ontario.

Another factor is more effective arson investigation. Committee members will recall the dramatic increase in arson statistics in the late 1970s. It was even projected as the crime of the Eighties. The four years ending in 1980 showed a 45 per cent increase in arson in Ontario.

This threat was met with a variety of programs. They included better training of the fire department and police officials, better co-operation procedures for all fire investigating agencies, emphasis on public awareness and an increase in investigation resources for the office of the fire marshal. The result has been a decrease in arson from 1981, an average of more than 9 per cent. The decrease in 1983 over 1982 was 9.6 per cent.

I also wish to advise the committee that the Ministry of the Solicitor General has been working on a major revision of the Fire Departments Act. This statute is primarily concerned with the bargaining and arbitration system for firefighters. This project has proceeded parallel to the work on the Police Act. Extensive consultation is taking place with the Association of Municipalities of Ontario, the Ontario Association of Fire Chiefs, the Ontario Professional Fire Fighters Association and the Provincial Federation of Ontario Fire Fighters. Once again, we are working towards the introduction of a first reading bill in the Legislature.

Mr. Boudria: That pause is too long.

Hon. G. W. Taylor: I know. I am using up my time here.

Mr. Chairman: Take your time.

Hon. G. W. Taylor: Will you pour me another glass of water, please? The fire department needs water to put out the fire here.

Mr. Boudria: Tell whoever writes it to make it shorter next year.

Hon. G. W. Taylor: We in the ministry are grateful for the Report of the Public Inquiry into Fire Safety in Highrise Buildings, completed by Judge Webber and released earlier this year. He has produced a most comprehensive document that will be of interest and practical value to all sectors of the community. I am sure the member for Riverdale (Mr. Renwick), who was anxious for that report and supported it fully, will be supportive of its recommendations.

There is advice to the government and much of it is in the process of being implemented. For example, a good deal of the testimony before the inquiry related to hotel fire safety. Judge Webber stressed in his report the importance of eliminating any conflict between the Hotel Fire Safety Act and the Ontario Fire Code on the one hand, and the Ontario Building Code on the other hand. We have recently brought in new hotel fire safety regulations to deal with this matter, including upgrading, maintenance and fire procedure responsibilities. These regulations come into force on June 1 of this year.

The other fire legislation which warrants comment is part 9, Retrofit, of the Fire Code. The first portion came into force on April 29 of last year and deals with boarding, lodging and rooming houses and assembly occupancies. It has worked well in the past year and, as I mentioned earlier, might be part of the reason for

our improving fire loss statistics.

We are amending a provision of the fire code which has been a source of concern to a number of church congregations around the province. The regulation requires the retrofitting of existing assembly buildings, including halls in religious establishments other than those used for worship. Representations from church groups indicated the cost could be something of a problem. In order to provide relief for the churches, many of whom face serious financial pressures, the code is being amended to give a one-year extension to all churches. After that year, the fire code allows further time for compliance where arrangements to correct deficiencies are being made in consultation with the local fire chief.

I have also asked the fire marshal to work closely with the church community and with local fire departments in the coming weeks and months in order to assess the situation and facilitate the planning of the work necessary.

I would also like to touch on some developments in the implementation of the province-wide extrication program. A total of 373 police officers received almost 6,000 hours of extrication training. This enabled the province to place extrication kits in 30 Ontario Provincial Police detachments to provide a service that was previously nonexistent. The kits are placed in areas not currently being serviced by municipal fire departments.

The grant program to assist municipalities to purchase extrication equipment has been very well received. In 1983, grants amounting to \$250,000 were given to 120 municipalities. The concept of this program is to have a basic extrication kit for immediate response in every fire station in the province, and have full rescue support units strategically placed throughout each county, district or regional municipality. To

date, the province has assisted in placing in service 355 basic kits and 21 support units.

In addition to the grants, an ongoing training program has been established and the Ministry of the Solicitor General will be sponsoring an international auto extrication competition in September at the Ontario Fire College in Gravenhurst. The primary purpose is to invite specialists from around the world to exchange knowledge and information.

I would like to bring the members of the committee up to date on the activities of the office of emergency planning under co-ordinator Ken Reeves. The Emergency Plans Act, of which I spoke last year, was given royal assent last June. With this legal basis for emergency planning in place, municipal interest and involvement has increased significantly.

11:10 a.m.

Our ongoing program of assistance and active participation in emergency planning at the municipal level continues to grow. In early 1984, we published two handbooks containing guidelines and information relating to the development of emergency plans. In addition, in response to applications under the federal government's joint emergency planning program—the acronym is JEPP—we distributed almost \$667,000 to municipalities for undertaking a variety of emergency preparedness projects.

These projects range from the production of emergency plans to the purchase of vehicles, radios and associated equipment. These projects do a great deal to strengthen and speed up emergency response at the municipal level.

The revised provincial nuclear emergency plan is approaching its final stages, and I expect it will go to cabinet for approval shortly. This plan will enable the province to be better prepared to deal with the offsite effect of an emergency at a nuclear facility, should one occur.

In an effort to further improve our understanding and ultimately our responsiveness to an emergency at a nuclear facility, I have established working groups to study aspects of our response system. Some of the policy issues under study are public information and education, technical aspects of our planning and the location and equipping of possible emergency control centres. The reports of these working groups are expected to be ready shortly.

In regard to nuclear contingency preparations, a major exercise was held in May 1983, involving the provincial emergency organizations and the municipalities of Durham region and Metropolitan Toronto. Such exercises are

useful in helping us to update and fine-tune emergency planning and preparations. This exercise was part of a regular series which will continue.

Finally, I would like to turn to certain initiatives within the support services of the ministry. Constable Sherry Baker of the Ontario Provincial Police was recently appointed affirmative action program manager for the ministry. Constable Baker has developed and gained approval for a two-pronged approach to affirmative action within the Ministry of the Solicitor General.

The first strategy is the development of the current personnel within the ministry to enhance their qualifications for management positions. Constable Baker plans to accomplish this through establishing a skills inventory, using the auxiliary career development program of the women's directorate, and establishing a series of advisory committees for women in the ministry.

The second strategy is to increase the number of women in nontraditional occupations within the ministry. The priority for the 1984-85 fiscal year will be OPP constables. As you are aware, this year marks the 75th anniversary of the OPP. However, it also marks the 10th anniversary of female police officers within the OPP.

Constable Baker, along with other OPP policewomen, will be conducting a series of press conferences in the 16 districts of the Ontario Provincial Police, to inform women of the career opportunities within the OPP and to encourage more women to apply to become police officers. Constable Baker conducted two press conferences last week, in Chatham and London, and from all accounts, this program is being well received.

Also this year, we have appointed a Frenchlanguage co-ordinator for the ministry—one who even speaks French, Mr. Boudria—in the person of Constable Donn Sabourin, an Ottawa native and a 10-year veteran of the OPP. Constable Sabourin's initial tasks are to assess the strengths and weaknesses of the ministry in the area of the French language and to develop a preliminary strategy for dealing with French-language initiatives in the ministry. I emphasize that while Constable Sabourin is a member of the OPP, he is French-language co-ordinator for the ministry as a whole and will be dealing with all branches of the ministry.

Another area of support services which deserves mention is that of information technology. As I indicated at the beginning of these remarks, we received \$400,000 during the 1984-85

estimates process to hire staff to become the nucleus of the new information technology services branch within the administration division. The primary responsibility of this branch will be to design, develop and implement an information technology strategy for the ministry for the next number of years.

In addition to the information technology services branch, we have also established a management improvement branch, again within the administration division. This branch will provide the necessary leadership and support to ensure the development and implementation of appropriate management processes and procedures throughout the ministry. While info tech services will focus on technology, management improvement will focus on nontechnology issues of management.

At last, and long last, Mr. Chairman, that concludes my opening remarks. I hope the committee members find them useful. I now look forward to our discussions. Any longer and my voice would not have held, which might have been a blessing for all.

Mr. Chairman: I thank the minister. It looks like your voice did hold up fairly well. I think we can move on to Mr. Spensieri, the critic of the official opposition.

Mr. Spensieri: Mr. Chairman, I am not sure whether my voice will hold up for that long. In anticipation that it might not, I would like to table with the Solicitor General one or two items which have been worked up by our research staff, assessing the estimates (a) in the light of the restraint program and (b) in the light of certain inquiries that were submitted to the ministry. I think the minister is already in possession of these two documents but I will table them once again. I would ask for the courtesy, if any replies are forthcoming as a result of our chats here today, that those replies might address themselves in some way to those concerned.

I am happy to participate in these estimates both as a member of this committee and as critic for our party. I wish to congratulate the Solicitor General on the appointment of Mr. Ferguson. My wife and I had the pleasure of meeting Mr. Ferguson and distinguished members of his family. We were very much impressed by their sense of fairness and decency and, above all, of their value of family life, which is certainly something we wish to see in all our senior public officials.

This is a first, although it is the third year of the separate Solicitor General's department, in that it is a year when the budget exceeds the barrier of

the \$300-million mark, so I guess we are getting right up there in the field of the superministries. With a budget exceeding that threshold sum of \$300 million, I found it rather interesting that the Solicitor General would, in the address he made to the Ontario Association of Chiefs of Police on June 21, 1983, make the following statement: "All of you know that—like your own operations—the Ministry of the Solicitor General is crisisoriented. Regrettably, we have only so many bodies to deal with these crises."

I think the Solicitor General was referring to the tardiness in presenting the Police Act for first reading, but the statement, to my mind, seems to set the tone for the entire modus operandi of the Ministry of the Solicitor General. It seems we do not have as yet—and perhaps the infancy of the ministry is largely responsible for this—a long-range policy, planning and implementation component, certainly not in the head office classification, and I have not seen it in any of the other vote items.

It seems to me the history until now has been one of activity as a reaction to crisis. I need only cite the derailments in Medonte and Mississauga and then the flurry of activity with respect to emergency plans and dangerous substances activities; the various high-rise deaths and fatalities and property losses, and once again the flurry of activity culminating in the Webber report; the domestic violence headlines and a flurry of activity about them, and pornography and Project P.

11:20 a.m.

There seems to be an approach which, as the Solicitor General himself said, is crisis-oriented. I hope as we move away from the stages of infancy to the stages of maturity, as the estimates have done, we will be looking to some longerrange planning.

The Solicitor General devoted a good part of his opening remarks to the issue of organized crime. I was not going to touch upon it, but I suppose that once again the notorious slayings and other activities are indicative of a hyperactive year in this field. Once again they have forced the Solicitor General to devote as many pages as he did to this subject, but I do not see a corresponding allotment of funds and resources.

It is interesting that the Solicitor General would have said at the annual training seminar and workshop on organized crime in Niagara Falls that he recognizes the magnitude of the problem. The address at that time put it another way. The tax on the amount of money that is reputed to be going to organized criminals—

namely, \$9 billion—would be sufficient to pay the operating expenses of every police department in this country.

With this kind of incentive it seems to me that there really has not been a concerted guideline on the part of the Solicitor General, either to fund the Criminal Intelligence Service Ontario with much more largess or to create a department within the OPP that is more readily accessible to victims or potential victims of organized crime.

I am not one of those who would have called for a public inquiry or a royal commission, because I quite agree with the Solicitor General that the Quebec experience did show us that the participants in these kinds of nefarious activities are made larger than life. It did, however, also bring about some major apprehensions and some major convictions.

I would hope the Solicitor General would look towards setting up, in connection with the CISO and the OPP, some form of open office in the various municipalities where the problem exists, along the lines of something as accessible as the public complaints commissioner, where potential victims would find themselves dealing with knowledgeable enforcement officers-as is not often the case in dealing with the local police station or division, especially in Metro-some kind of central office in some of the major urban centres so that victims of this type of activityextortion or whatever other field organized crime operates in-would find not only knowledgeable enforcement officers but also a body of support facilities.

We have to appreciate that victims of organized crime activities are not in the same league as victims of other crimes. We have a fine example in Toronto, where a knowledgeable, well-thought-of solicitor, now deceased, by the name of Mr. Cocomile felt, after an examination of his own conscience I suppose, that there were not enough protective facilities available to him to allow him to lay charges and to conduct a criminal proceeding against Volpe and his various associates.

It would seem to me that, rather than spend money on a royal commission or on other types of publicity in connection with organized crime activities and police counteractivities, a more tangible and visible response through a centralized office would be the ticket.

Turning to another topic, the Solicitor General referred very briefly to changes he intends to bring about to the Private Investigators and Security Guards Act. I have not been as active in this field as the members from the third party,

and particularly the member for Hamilton East (Mr. Mackenzie), but it appears to me the Solicitor General ought to investigate the number of dormant licences that have been issued by the registrar of private investigators and security guards and are being held available and open to be used as soon as the heat gets a little heavy on the known or operative licensees.

I am thinking not so much of the Securicor situation but of related incidents where associated operators through friends or business associates etc. have maintained any number of licences open at any one time and have been able to regroup very quickly and very effectively to carry out the same types of activities, particularly in the labour relations field, through the use of these dormant licences.

It appears to me the Solicitor General has a duty in this field to ascertain that only those who are active and showing legitimate business operations ought to be permitted to remain licensed and that there ought to be a cleaning up, so to speak, or a purging of the list of dormant licences, if such turns out to be the case through his own assessment and resources, which are considerably greater than ours.

I have had various communications from those responsible for the humane society. I am sure the Solicitor General has had these as well. In particular, I have been receiving correspondence from the North York branch, through Miss Grace Hall and others, indicating the very severe crisis that exists in the humane society field as a result of the lack of funding, for which this minister must take some of the responsibility even in a time of restraint. I hope, as the Solicitor General has indicated on various occasions, that if the humane societies do make internal changes and bring about higher levels of efficiency, he will then turn his mind to some better financing.

An interesting letter, copies of which I am sure the Solicitor General has received, deals with the question of setting up a liaison officer for the film industry now that Ontario is becoming more and more the Hollywood North and there is an increased use of animals and pets in the movies.

Mr. Robert Appleby wrote the Solicitor General asking whether this province was prepared to appoint an industry representative, through the humane society or directly through the ministry, to ensure that animals and pets being used in the movie industry are not abused in any way. It is a minor point but one that perhaps should be looked into, because the gentleman did seem to make a very effective

point about the mishandling of these canine and feline actors in our midst.

There is one point which the Solicitor General did not touch upon and on which I wish to have some clarification. Some representations have been made to me in Metro Toronto that a lot of the ambulance operators are encountering serious difficulties with respect to the enforcement of speed limits and other regulations and laws relating to the use of arterial roads and highways. 11:30 a.m.

I am wondering whether the Solicitor General, as well as his colleague the Minister of Transportation and Communications (Mr. Snow), could indicate exactly what the guidelines are for ambulance operators, to what extent they are exempt from transgressions of our Highway Traffic Act regulations and local regulations and what the ministry directives are going to be in that area.

The press has also made much mention of the fact that the present ambulance policy risks lives, because the ambulance operator or driver is not permitted to enter premises in the event that the person who originated the call is not available when the ambulance arrives, either through having collapsed or through having had a serious setback in his condition.

It seems to me the Solicitor General ought to consider granting some form of special status to trained ambulance operators so they can overcome this procedural difficulty. It is not much good to have an efficient system if all we have is the ability to knock on the door and, receiving no reply, to then depart and leave the person at risk.

There have been, especially in my own part of North York, many complaints from commercial operators regarding the Sunday closing legislation and the Solicitor General's remarks thereon which seem to confirm the status quo. My own mayor, Mr. Lastman, indicates that everything is hogwash, that the courts will vindicate the operators and that there will be the Sunday sale of furniture and everything else at the earliest possible opportunity.

While I do not take such an open view of the situation, it seems to me that if we are going to have effective Sunday closing legislation, the Solicitor General ought to address that a little more carefully and send directives to the municipalities as to the creation of tourist areas regarding the arbitrariness with which these tourist areas are brought into being. I am thinking of facilities in our own area such as Yorkdale and various other major shopping centres in the Highway 400 and Finch area, where no one has

yet indicated that they could, by any stretch of the imagination, be considered tourist areas.

If we are going to grant exemptions from obligatory closing, there ought to be a greater number of provincial directives as to how the various licensing commissions ought to conduct themselves.

Another persistent problem, which I am sure has been brought to the attention of the Solicitor General before, is the operation of flea markets in our own area, and I am sure in his own riding close to Barrie, where a number of constituents who are commercial operators have been plagued by undercutting and aggressive merchandising techniques. Our flea market operators, who are selling both new and used items, are creating havoc with the economic future of established merchants.

As this is meant to be a free-wheeling and not necessarily cohesive commentary, I want to take a few minutes to deal with something of moment at this time, and that is the so-called phase 2 of the Grange inquiry. We seem to have had total silence from the Solicitor General on this whole issue.

Now that the police lawyer, Barry Percival, has been instructed to challenge the Grange royal commission in the Ontario Divisional Court so far as it relates to police officers, it seems to me that silence from the person responsible for policing in Ontario is no longer tenable.

Just as Mr. Percival, on behalf of police everywhere, was active in ensuring the widest possible inquiry when it concerned nurses and other medical professionals, he ought to be directed or instructed to be equally liberal now that the phase 2 investigation has turned to the question of police conduct. It seems to me it is something the Solicitor General has been singularly silent on. Perhaps now is the time to give some indications of his standing.

I was very much pleased to see the detailed accounting given of the fire safety measures and the progress made in that area. I have a couple of concerns. One is, now that the Solicitor General has seen fit to give way to religious groups and their inability to comply with the first phase of the tightened regulations, that he ought to consider as well a problem that has been brewing in urban residential areas such as North York, which I happen to represent.

There are large numbers of high-rise condominium residential units. I have representations from associations of condominium owners who feel the retrofitting requirements to bring their buildings up to standard would place the entire

condominium corporation in jeopardy. It would necessitate tremendous levies being made on each of the unit holders at a time when municipalities such as North York are extracting large sums to bring the buildings into compliance with other aspects not related to fire and high-rise safety.

All these things hitting the condominium owner community at once are going to pose several problems, a severe hardship. The Solicitor General, through his staff responsible for high-rise safety, might consider particularly what the conduct and posture are going to be vis-à-vis residential condominiums of a high-rise nature.

With regard to Judge Webber's report, we can only say we are waiting with some trepidation and interest to see the degree to which the various recommendations are going to be implemented and in particular the degree to which this ministry is going to be as loose with its change as it is with its recommendations.

We have had many complaints, from fire departments and so on, that it is all well and grand to impose the upgrading and the standards from on high, but that there has been no financial contribution forthcoming. As grandiose as the upgrading might be, it seems to me there has to be an equally ambitious program for some sort of transfer of payments to the affected municipalities or fire departments to ensure there is going to be a meaningful compliance without too much strain on the already overstrained budgets of the local fire departments or municipalities.

I had one or two concerns to raise about the Ontario Provincial Police portion of the estimates. It is the lion's share, but I am not going to give it the lion's share of our time. Everything is fairly straightforward and I appreciated the Solicitor General's lucid presentation of a very complicated police force.

The question that concerns us is the whole issue of training of constables and the cost of training. There have been representations made by members of my own caucus and by police chiefs across Ontario. One representation was that there ought to be payment by cadets for their own training, since they are very lucky individuals because they are assured of a job upon completion of the training, whether it be at Aylmer or elsewhere; they ought to be responsible for the cost of their education in the same way that those training to be chartered accountants are.

11:40 a.m.

The other matter was the question of being able to recruit from available and qualified applicants outside the Ontario jurisdiction, such as from Prince Edward Island and so on. I have only a layman's knowledge of this complicated field, but it seems to me that municipal forces ought to be permitted, to the largest extent possible, to recruit wherever they see fit within Canada. It is, after all, one country. Our charter specifically guarantees freedom to obtain employment throughout Canada and to maintain employment throughout Canada.

Some serious consideration ought to be given at this time as to whether the ministry's scarce resources can be freed up by a more direct financial contribution from those wishing to participate in the training that will make them police officers in this province. I am sure there is no shortage of applicants willing to pay their way to the largest extent possible.

I would like to turn for a moment to something that is of strategic importance to everybody concerned with the administration of justice in this province. That is the issue of the videotaping of police interrogations, confessions and so on. I know the Solicitor General wishes to stay away from cases currently before the courts or under review, but it seems to me that, as the chief policeman in the land, he ought to be a little more vocal in indicating whether he favours videotaping all police interrogations.

If he is prepared to work with the police associations to set up guidelines for this, and if he is willing to make the financial commitment through cabinet that is necessary to bring about what most jurists, civil libertarians and people in the legal community consider to be a very desirable development, that will eliminate any potential for misconduct or for doubt later as to the way the police conducted themselves in the course of interrogations and fact-finding. We certainly advocate the implementation of videotaping in this field as quickly as possible. As well as knowing the position of the Attorney General, we would like to know the precise position of the Solicitor General.

There has been a lot of judicial comment, which the Solicitor General is aware of, by judges in the Metropolitan Toronto area, casting doubts on the conduct and credibility of police officers. People such as County Court Judge Ted Wren have cited bad faith and wilful misconduct on the part of the police. Others have indicated there has been activity unbecoming in the interrogation process. It seems to me a substantial number of these matters could be put to rest

by a videotaping policy and the corresponding funding.

The Solicitor General made reference to the decline in the number of deaths as a result of police chases, and I think the statistics bear him out well. This matter seems to be under control, but just a few days prior to these estimates, we saw the death of a motorcycle passenger, who was killed as a result of being in the wrong place at the wrong time while a police chase was going on.

It is incidents such as these, as unexpected and as bizarre as they are, that bring home to us the need to continue to press for an outright ban on police chases in built-up areas. That may be repugnant to our enforcement officers, who certainly do not wish it to become public knowledge that simply by being in a built-up area people will not be chased. But there comes a time when we have to say it is better to rely on other forms of apprehension, such as the use of helicopters or licence-plate noting, and cease to rely totally on police chases in a built-up or urban area where there is the likelihood of death.

The present guidelines, as extensive as they are—and they have moved a long way from the cowboy days—merit some additional revision and thinking.

My colleague the member for Prescott-Russell (Mr. Boudria) wanted to get his digs in about recent government contracts, but I do not think we need to be concerned with that. It has had enough press, and some things are better left unsaid.

In wrapping up, I have a couple of local concerns that have been raised at one time or another by our various colleagues, and I would like to go over those for a moment.

Dealing with the question in Nepean, which the member for Ottawa East (Mr. Roy) raised earlier, it would be instructive for us to know whether the Solicitor General intends to make it a practice to request police reports or to enter into investigations while the cases are pending and what he intends to do once the report has been obtained. I understand there is a forthcoming OPP report. The member for Riverdale (Mr. Renwick) has raised concerns at various times in the House about the Baker case, and perhaps the Solicitor General would care to make some comments on it.

Hon. G. W. Taylor: I just want to interrupt you at that point, because it is a question of the use of the word and how it has been interpreted by the media. In the Nepean one, as I explained to the member for Ottawa East, the media asked

the staff at the ministry what we were going to do. We had asked for a report on the situation. All a report means is that if something has appeared in the media, I will ask for a report so I can better answer the questions of you and your colleagues in the Legislature.

That can be compared to the Hamilton one, which the member for Riverdale asked about, which is an investigation. An investigation is more active than a report, which is more passive. I had great difficulty because the media sometimes do not like our use of the words "passive report," and they extend the thesaurus and use other words in their reporting.

I apologize to you and to my colleagues. The media in this area have used some words other than what we had used. I thought I would explain this to you now so it would be of some explanatory help to you. One is an investigation and the other is requesting information.

Mr. Spensieri: Thank you for that explanation. The concluding remarks I wish to make now, which I perhaps will pursue later under the appropriate vote items, are on a number of miscellaneous issues that were brought to me.

One is from the Niagara area concerning court costs for police attendance during trials and the desire of various municipalities to be reimbursed or subsidized for those policing costs while officers are attending courts. I will have some remarks about the Indian policing program under the appropriate vote item.

I also wish to discuss under the appropriate vote and item the question of rural forces manpower and the example of Iroquois, which I think has been brought to the attention of the Solicitor General before as an example of some of the difficulties encountered by rural forces.

Subject to specific questions under specific vote items, this concludes my remarks.

11:50 a.m.

Mr. Renwick: Mr. Chairman, after that brief opening statement by the Solicitor General, I feel constrained to limit my remarks even more than he did in the course of his opening statement.

I am rather pleased that in the standing committee on administration of justice, we appear to have the estimates of the various Justice portfolios almost on an annual basis now; we are not skipping around. I think it is very valuable that it is almost exactly a year since we had the last opportunity to look at the estimates of the Ministry of the Solicitor General.

We will review his statement again before we come to the discussion of the particular programs within the ministry, but in my opening remarks I

do not intend to touch upon fire matters or upon all the work that is being done in that area, because I think it is much more appropriate if any comments I make and any discussion we have await the arrival of the fire marshal.

My colleague the member for Welland-Thorold (Mr. Swart) is unavoidably not present today. At the appropriate time, which I assume will be the vote on the Ontario Police Commission, he will specifically want to raise matters related to the police in the Niagara regional area, which as the minister knows are uppermost in my colleague's mind.

There are three immediate matters of a specific nature which I want to raise because they are of concern to me. Then there are some further matters which I want to deal with as briefly and laconically as I can.

The question of another police chase and death has come up, fortuitously, at the time of these estimates. The Solicitor General made reference to this in his opening statement. A year ago, I dealt with the question of a police chase in Riverdale, and I want to make a comment about that case to try to get the Solicitor General to understand the nature of what I perceive to be the public concern that takes place when police chases happen.

I have before me the police pursuit directive or guideline, which I believe is an accurate one, of the Ontario Police Commission to the various commissions throughout the province. It was effective August 3, 1976, and was amended on June 2, 1980. I have as well the Metropolitan Toronto Police pursuit guideline and perhaps a later version of the Ontario Police Commission guideline, which appears to be dated February 23, 1982; at least, I received it on that date.

I would appreciate it if my colleague and I could each have available to us the latest police directives, both with respect to Metropolitan Toronto and the Ontario Police Commission, regarding these pursuits.

My concern is a simple and narrow one in these tragic circumstances where a fatality occurs. I do not think it is sufficient to say, "We are damned if we do; and we are damned if we don't." They are matters of very precise and concise judgement which have to be exercised and yet the public does not understand or hear about the result until much later, if at all. That is because there is what I believe to be an incorrect apprehension of the public interest which states that the information about police pursuits will not be made available until after the criminal prosecutions are completed.

In the case of the tragic incident which took place in my riding, the actual event occurred in the early morning hours of Sunday, August 16, 1981. It was on July 15, 1982, that the criminal charges were disposed of. By that time, the Metropolitan Toronto Police had lost track of my particular interest in the topic, so I had to write to them in December and I got a reply later that month from the chairman of the Metropolitan Board of Commissioners of Police.

In the tragic incident which took place over the weekend with respect to the police chase on Lawrence Avenue East, resulting subsequently in the death of one person and a serious injury to a second person on the northbound lane of Victoria Park Avenue, we have now been told that criminal charges have been laid against the driver of the car. We have also been told that there will be a coroner's inquest, to be conducted by Coroner Paul Tepperman, into the circumstances of that police chase. Under the Coroners Act, that inquest cannot commence until after the criminal charges are disposed of.

The net effect of what I believe is a misconception of the public interest and what needs to be served is that by the time the actual specific details of that police chase are made available to the public, if ever, the public will have lost its appreciation of the seriousness of the incident that has taken place. This record is consistent in any cases I have been involved in related to high-speed police pursuits, including the one that was of concern to my colleague the member for Algoma (Mr. Wildman), which he raised with the police force in Sault Ste. Marie last year.

My perception is simply that there is no reason to believe that the factual information related to a police pursuit violates the rights of the individual accused person charged with criminal offences as a result of a police pursuit in those cases where an accident takes place or that it cannot be made available to the public. That factual information is the time of commencement of the police pursuit and the time when it ends, either because it has been called off or because the pursuit is completed in the tragic way in which this last one was completed, as well as the number of police cars involved, who the officer in charge was at the time, whether the guideline of the force was complied with, what speeds were attained during the pursuit, what the route of the pursuit was and what the factual information was which happened at the end.

I want to emphasize that this is factual information. In my judgement, that information

should be made available at the earliest possible time while the matter is still high on the list of matters of public concern.

12 noon

That kind of factual report, issued and published and made available, will go a long way to make people understand, from the police point of view if that is necessary, or from the police point of view if the public concern is real and apprehended, that these chases do not occur simply because of the decision of a particular police officer at a particular time, because the controls are inadequate, or because someone should have foreseen the consequences.

The answer will be given to me that the factual information, which I believe to be in the public interest, cannot be disclosed until after the criminal investigation has taken place. I want the Solicitor General to rethink that position and, if possible, come up with a more adequate way of informing the public exactly what did take place without in any way impinging upon the criminal process that may take place.

It is fair to say in regard to the police chase to which I referred in my comments in the estimates a year ago, which is the one I related earlier, namely, the one that took place on August 16, 1981, and was finally disposed of in July 1982, that I did not see or hear of any report in the press as a result of that case. The facts are on the record. If there is one thing a great number of people in the province understand, it is automobiles, how they travel, what is dangerous driving, what are the circumstances under which danger to the public has occurred and what can be done to prevent it.

The details of the case I put on the record a year ago indicate to me that there was a failure by the police with respect to that pursuit, but it has been beyond my ability or the ability of other members of the public ever to have that matter brought forcibly to the attention of the public. Nor do I understand whether any real concern was felt by the Metropolitan Toronto Police to review that matter and say, "Yes, there was compliance with the rules and regulations of the guidelines that were imposed."

Fortunately, there was no serious accident, but there was a police pursuit in the riding a few years ago, which again I raised at that time and for which could get no satisfactory explanation, other than to be told in substance, "Think how well it was conducted because nobody was hurt." It was sheer accident that at the time when children were going to school in the narrow streets of Riverdale, nobody was hurt in that

police pursuit. It was not, as my investigation disclosed, a matter of any urgent necessity for the police to undertake that pursuit at the time and on the occasion they did.

I have no capacity or desire, let alone any power, to issue an ultimatum to the Solicitor General. However, in the case of the William Franklin Baker matter, I want the Solicitor General to understand, as I tried to make the Attorney General understand, that I will consider there is something seriously wrong in the case of Mr. William Franklin Baker unless there is a full and complete report to the Legislative Assembly or, in the absence of that, the appointment under the Police Act of an inquiry by the Ontario Police Commission to conduct a total and complete investigation of all the circumstances, from the death of the person which resulted in the charge being laid, which I believe was on December 30. 1983, to the subsequent arrest of Mr. William Franklin Baker on January 2, 1984, and his discharge four weeks ago yesterday in the court in Hamilton, bearing in mind that in the intervening period there were confessions put in as evidence, that there was a preliminary inquiry and that there was a very laconic, unexplained withdrawal of the charges by the crown when the case came on for trial four weeks ago yesterday.

The overtones of racial discrimination, the cost to the family to retain and pay private investigators with respect to the investigations that were to take place to produce the result that the young man was discharged and the failure of the crown to make any statement in open court about the matter lead me to believe that all the circumstances require a public inquiry. But it will not be satisfactory-indeed, in my judgement, it will be an indication of inefficiency and lack of a sense of urgency-if when this House rises, which in all likelihood will be within the next month, no statement has been made, preferably jointly by the Solicitor General and the Attorney General.

It is not simply a question of what took place during the interrogation by the police; that is obviously one most important and serious element of the matter. In my opinion, the whole course of the administration of justice is up for scrutiny within the capsule form of the circumstances of Mr. Baker's arrest, detention and subsequent discharge.

I have made no independent inquiries. I decided, in my own view, that I would not do that. I am not interested in entering into a dispute about the matter. I want all the factual information made available in the assembly because of

the number of problems that are raised by that case.

I am not one to suggest that this is a pattern across the province, but there have been sufficient incidents of one kind or another to raise serious questions about the procedures that are followed by the police in the course of the arrest and interrogation of persons.

I might say, and it is quite open to dispute, that I would not like to be a member of a visible minority on the streets of one of the major cities in this province and to be a young man between the ages of 15, say, and 22. I would not like to be in that position.

That is one of the major factors that lead me to believe the concerns about this incident, which I believe are shared by other persons, should be examined in an open public inquiry, not for the purpose of damning anybody but for the purpose of finding out what did take place. The Police Act provides for it; and the Public Inquiries Act specifically exempts this kind of inquiry. I ask the Solicitor General, in conjunction with his colleague, to call for that kind of public inquiry or, in the alternative, to allay my concern by a full and complete statement in the assembly before the summer recess occurs.

12:10 p.m.

The third item is one in which I believe the Solicitor General, his colleague the Attorney General and his colleague the Provincial Secretary for Justice (Mr. Walker) have done an extreme disservice in focusing on what I believe to be significant and legitimate concerns about the law in force in Canada concerning paroles.

I refer specifically to the comments the Attorney General has made, the comments the Solicitor General made at the victims of crimes conference when he spoke a couple of weeks ago at the luncheon at Sutton Place, and the remarks contained in the opening statement of the Provincial Secretary for Justice at that conference using the example of the Richard Stephens case. I think what each of the three ministers has done is to speak in inflammatory terms. With the greatest respect, if the Solicitor General was uninformed at the time he made the statement, it was irresponsible; if he was informed, it was even more irresponsible.

The reason I say this is that he will recall that Richard Stephens was responsible for the death of Joseph Muglia. It was a crime that offended me deeply. It was senseless; it was violent. Mr. Stephens did not know Mr. Muglia. Mr. Muglia died outside a tavern in Brampton, if my memory serves me correctly.

When the case went to trial, Mr. Stephens was sentenced to 21 months' imprisonment, which meant he was going to be in one of the provincial institutions, plus a period of probation. I was so upset about that sentence and about the circumstances in which the death had occurred that I wrote the Attorney General.

I got the complete statement of the court at the time of the sentencing, including the submissions made by the crown, the submissions made by the defence counsel and the statement by the judge when he gave the sentence of 21 months. I was still concerned, but at least I had some appreciation of the depth of concern and the effort that was made to try to find something called the just sentence in that situation. It is not up to me whether I agree or disagree with the matter; I am talking about what happened in that courtroom and what the judge did on the basis of the representations made to him.

Then the crown appealed the sentence, and it went to a five-man Court of Appeal in Ontario. The judgement was given by the man who, if one has to select from among the judges of the Court of Appeal—and it happens to be a court of very high calibre at the moment—is pre-eminent in his knowledge of these matters, the Honourable Mr. Justice G. A. Martin. He gave the decision of that court unanimously on the question of sentence. He expressed the concern on both sides as to what was the appropriate sentence. He raised it to 36 months from 21 months, and he therefore put the execution of the sentence into the federal system.

As the letter from Mr. Kaplan in response to the Attorney General's letter stated, the judges are aware at the time they award a sentence of the impact of the National Parole Board on that sentence. All the judges may not be aware, because there was another judge who was knocking the National Parole Board a few days ago, presumably on a misunderstanding. However, if there is one judge who understands the implications of the sentence with respect to the application of the parole board and the law under which it operates, it is Mr. Justice Martin speaking on behalf of the Ontario Court of Appeal.

I make the point that there is a very legitimate concern about sentences in these circumstances, and I simply say to the Solicitor General and to his colleagues the Provincial Secretary for Justice and the Attorney General that they have done a disservice in that case.

If the Solicitor General is criticizing the Ontario Court of Appeal for its decision because the implications of the National Parole Act and

how it operates are very clear to a judge such as Mr. Justice Martin, I suggest he has a responsibility to say that. If that is not the Solicitor General's concern, perhaps it is another concern; I noticed a very muted statement in his opening remarks today about the parole system, in that he is now saying he wants a change in the law by the Parliament of Canada.

I was quite surprised and most upset because at the time Richard Stephens was originally sentenced I had been equally concerned and upset. but I had informed myself to the best of my ability about what had taken place in the minds of the court and the crown when they made the submissions on sentence and in the minds of the defence counsel when they made their submissions. Anyone who cares to do so can read the lengthy reasons and the further reasons of the Court of Appeal to understand the extremely difficult problem with which the courts are faced in deciding on a sentence. It does not serve the public interest to use those kinds of circumstances to berate the National Parole Board. much as there may be appropriate reasons to change the law.

12:20 p.m.

I feel somewhat strongly about that matter, but I want to move on to another matter that is of some concern to me. I do not understand it, and in this time when we are all concerned about privacy and freedom of information, I do want to ask for the best possible information I can have and, if necessary, an understanding that a review will take place if the information the Solicitor General may be able to provide for us appears to require such a review.

The only information I have is from the document tabled by the then Provincial Secretary for Justice, the member for Carleton-Grenville (Mr. Sterling), in December 1982 about the information banks of the government of Ontario. The ones that refer to the Ministry of the Solicitor General raise questions in my mind which I hope during these estimates the Solicitor General can respond to. I also hope he can bring us up to date on the information banks and let us know whether, in his opinion, they are adequate.

It is my understanding that there are 25 information banks in the Ministry of the Solicitor General and that under four of those banks the information is automatically available on request to an individual who may be recorded in the file; in 10 the information is available to the individual with permission—the permission is often that of the commissioner of the Ontario Provincial Police, who is the authority with the

responsibility of giving permission if it is granted—and under 11 banks, the information is not available.

The one that strikes me as most unusual is the one headed "Contact Card." I quote: "The information in this bank identifies known criminals or persons suspected of criminal activity and is used to document the movement of known and suspected criminals. The information in this bank includes name, birth date, address and vehicle description, destination and place and time observed. It is kept on paper and by name. The individuals listed are 70,000 persons. The retention period is two years and then destroyed." I find that information contradictory if, as I assume it is, it is accurate.

A further bank that is illustrative of my concern is that of the Ontario Provincial Police anti-rackets branch. "The information in this bank identifies individuals suspected of criminal activity, charged persons and informants, and is used to enforce provincial and federal statutes and to maintain intelligence records pertaining to activities such as commercial and security fraud, counterfeiting and forgery. The information in this bank includes name, addresses," etc. The individuals listed are 7,000. The retention period is not scheduled. The information is not available to the individual.

The third one is the operational security evaluation file. "The information in this bank identifies persons who have been assessed for security purposes and is used to determine if a person is suitable for employment in sensitive government positions."

Hon. G. W. Taylor: The name of that file is?

Mr. Renwick: Operational security evaluation file. There is extensive information in that bank—name, address, physical description, birth date, sex, citizenship, educational attainment, employment history, present and past activities, information on associates, attitudes, reputation, mode of living, criminal offences, family details, creditworthiness and personal references. Storage is on paper in file folders by names. The individuals listed are 17,000. The retention period is not scheduled.

Another example of the kind of bank that raises questions in my mind is the palm print file. "This bank identifies individuals charged with an indictable offence and is used in court as evidence and to identify perpetrators of crime. The information in this bank includes name, birth date, fingerprint, serial number if known, and the identifying offence under which the subject is charged and fingerprinted. Storage on paper in

file folders by name. Individuals listed, 50,000. Retention period, 10 years, then destroyed. Information not available to the public."

There is a further bank, quite an understandable bank, covering applicants for permits to carry restricted firearms. That information is available with permission of the commissioner of the Ontario Provincial Police; similarly, with shooting clubs approved by the Solicitor General.

There are two or three others. There is no magic in some of the others. There are 58,000 names listed under the Private Investigators and Security Guards Act; that information is not available to the individual concerned.

I am sure the Solicitor General is aware of this. If anybody wants this particular extract, he is quite welcome to have it. However, during the course of these estimates, I would appreciate some explanation and rationale for some of those banks, what is the nature of the decision-making process and whether it should be reviewed.

Am I justified in having concerns about the information storage system? It is very much up front and centre these days, of course, because of its connection with freedom of information. The Provincial Secretary for Resources Development (Mr. Sterling) is hosting a conference on the whole question of privacy in the next little while. However, with respect to the Ministry of the Solicitor General, I am concerned about those storage banks.

Mr. Chairman: Excuse me, Mr. Renwick. We have just about come to the end of today's session. Could we ask you to adjourn?

Mr. Renwick: We are not going to go until one o'clock?

Mr. Chairman: I presumed we were going to go until 12:30.

Mr. Renwick: That is agreeable with me.

Mr. Chairman: Would it be agreeable for you to continue tomorrow?

Mr. Renwick: Yes. I do not want to take up a great deal of time. I have some other matters that I want to deal with. I trust I can just continue tomorrow. However, we do not have very much time in these estimates, do we?

Mr. Chairman: Eight hours, sir.

Mr. Renwick: Which at this point is what?

Mr. Chairman: We would finish next Wednesday, approximately at 11:30.

Mr. Renwick: Thank you.

Hon. G. W. Taylor: Mr. Chairman, I just have one correction I want to make; it is on line 5, page 46, of my statement.

Mr. Renwick: Which page?

Hon. G. W. Taylor: Page 46. The member would not want to miss this great correction. The word "auxiliary" in the first paragraph, line 5, should be "accelerated"—"accelerated career development program."

The committee adjourned at 12:29 p.m.

CONTENTS

Wednesday, May 23, 1984

Opening statements: Mr. G. W. Taylor	J-3
Mr. Spensieri	J-14
Mr. Renwick	J-18
Adjournment:	J-23

SPEAKERS IN THIS ISSUE

Boudria, D. (Prescott-Russell L)
Kolyn, A., Chairman (Lakeshore PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Taylor, Hon. G. W., Solicitor General (Simcoe Centre PC)
Williams, J. R. (Oriole PC)

Governme Publication





Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General

Fourth Session, 32nd Parliament Thursday, May 24, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, May 24, 1984

The committee met at 4:13 p.m. in room 151. After other business:

4:16 p.m.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

Mr. Chairman: Mr. Renwick, I think you had a few more observations to make.

Mr. Renwick: Yes, I did, Mr. Chairman. I do not intend to take up a great deal of time on the matters I wanted to raise in this brief opening statement.

I had dealt with the question of William Franklin Baker as best I could. I dealt with this strange attack by the combined forces of the Solicitor General (Mr. G. W. Taylor), Attorney General (Mr. McMurtry) and the Provincial Secretary for Justice (Mr. Walker) on the National Parole Board and the indirect nature of the attack which they, in fact, made on the Court of Appeal of Ontario and, indeed, on the trial judge in that particular case, without admitting that that was their object.

I dealt also with the question of the police chases and I did want to draw to the attention of the Solicitor General the compendious way in which I expressed my concerns about police chase problems in Hansard No. 206, of February 9, 1983, which were the concurrence estimates of the ministry votes, where I raised the kind of problem I was indicating the other day; that is, between the incident occurring and the length of time before there is any possibility of a public explanation of what took place, let alone the likelihood that nothing will surface with respect to that police chase. The details are in that Hansard.

The details are also in that Hansard with respect to the next matter. I am not given to making wild statements about matters—at least I do not think that is my particular penchant. I dealt in that Hansard with the whole question of the search warrants in the Litton bombing.

I have no tolerance for bombing or terrorism of any kind, but I dealt with the search warrants which took place and were executed in Ontario, in Peterborough and Toronto. In one instance, one of the search warrants was executed against a constituent living in my riding.

I am going to state flatly that, in the absence of any accurate, intelligible statement by the Solicitor General on that issue, I think the police were on a fishing expedition. I think they did not satisfy the legal requirements with respect to the nature of the reasonable cause they might have had to believe they needed to search those premises. Whatever all of the legalities are, I think it was a fishing expedition.

The case, so far as I can tell now, is concluded. The information is all in that Hansard and I am not going to repeat it for the record, other than to direct those who may at some time read it to the particulars in Hansard No. 206 of February 9, 1983, where, in the concurrence estimates of the Solicitor General, I set out in detail the substantial particulars of each of the search warrants that were executed in Toronto at that time.

As the press has reported, there were confessions in the court in British Columbia that related to two of the five people who were arrested in British Columbia in those rather dramatic police roadblock arrests.

There has not been, so far as I am aware, any reference anywhere, in any public sense, to any of the people who were involved. My concern, in the first instance, is with respect to the process and respect for that process about search warrants and, second, with the insensitive nature of those in charge of the police forces in Ontario about matters such as peace protest movements.

They seem to consider that somehow or other people engaged in that kind of activity are by nature subversive, that it is not the accepted position of the time on matters of extreme public concern, that that is an occasion or an opening in which it can be used to create an atmosphere which casts a cloud over a movement which thousands of people in good faith believe was a legitimate position.

It is not a question of whether I agree or whether the chairman of the committee agrees on the viewpoints. It is a question, again, of respecting the process and not having it misused or abused. I stand to be completely satisfied that that was not a fishing expedition.

It comes back again to that strange question I raised yesterday about the kinds of information banks the police have, the extensive number of people whose names are in the banks and whether

or not it is in some way out of that kind of information that the police start a trail from their file information that leads them on the kind of fishing expedition which took place in the case of the Litton Systems question.

I would be delighted to be satisfied that there was the kind of respect for the process I believe is essential, but I will go to my grave, sir, in doubt about that. You are the only person who can disabuse me of my immense concern about that issue.

The other matters I wanted to touch upon, without being repetitive—and we can perhaps deal with them on the particular and appropriate vote—are the kinds of things which are of concern to me. You will recall that the Treasurer (Mr. Grossman) in his budget on May 15 stated: "I have decided to hold our direct operating expenditures for most activities to last year's level, rather than permit them to rise with inflation."

I placed an inquiry in Orders and Notices on May 18, question 379 addressed to the ministry: What programs will be cancelled, cutback or delayed? How much funding is lost in each program? How many contract and permanent positions will be eliminated in each program? Perhaps that information could be forthcoming.

I think the inquiry could have been somewhat more carefully honed than the way in which it was placed in Orders and Notices. I would be interested in knowing what the programs are that the ministry had to delay or postpone, or the activities in its policy development and other branches that have had to be delayed, postponed, deferred or simply not considered because of the decision of the government to limit the ministry's operating expenditures.

The minister's opening statement had a very complete account of where the money has gone, but there is very little, in fact—one or two references—in his opening statement to indicate what he had to forgo in relation to public safety and the other responsibilities he has because of the bookkeeping atmosphere in which the budget was presented to the assembly and to the public. There will be an appropriate time to talk a little bit more about exactly where we are on some of the emergency plans that flowed from the responsibilities set out in Bill 2, now chapter 30 of the statutes of 1983, to which the minister referred in his statement.

In so far as the Police Act is concerned, I will believe it when I see it. I have been hearing that it has been forthcoming for a long period of time. I want to say to the Solicitor General that it is now

a decisive inhibiting factor in preventing the kind of innovative and effective operation of the police in respect of the adherence of the police to the elementary bases of the justice system in every respect throughout all the police forces in the province.

There have been just simply too many occasions now where the courts have criticized police evidence. As everyone knows, that is very much the tip of the whole system. That is where the public perception of the police often stands or falls, in the evidence which is given in courts in particular cases.

I am particularly concerned, and I have been for years, at the risk of a broken-record reputation on the question, that there are significant and substantial powers in the Police Act, as it now stands, with respect to the regulations which could be passed under the Police Act.

I had made a copy of them; it is undoubtedly among my papers. Suffice it to say that the regulatory power, which has been little used under the Police Act—indeed, so far as I can tell, there are four regulations. One is a technical one with respect to responsibility for policing that we can disregard for this purpose. Another one is basically with respect to the structure of municipal police forces and does not address what is of concern to me.

There is a very brief regulation on the question of equipment. In no way, shape or form does regulation 790 of the revised regulations touch upon the vast array of equipment that is now available within the police forces of Ontario for all sorts of purposes. None of that is covered in the regulations.

There is nothing to indicate that there is any legislative authority for many types and kinds of equipment, whether we are talking about crowd control or about the kind of other equipment we see advertised and discussed in the press and the media which is available to the police for the multitude of public duties they have to discharge. The only other one is the disciplinary code, which is in regulation 791.

For example, there is a regulation which would permit the Lieutenant Governor in Council to deal with the question of police notebooks, if they wished to do it. But there is nothing, one cannot find anywhere in the regulations of Ontario, anything by which any code of conduct with respect to the maintenance by police officers of their notebooks is set down as a matter of law and format of what their responsibilities and duties may be with respect to those books.

4:30 p.m.

In so far as I am aware, there is nothing with respect to the question of proper procedures on arrest, detention, interrogation and all the matters touching upon the liberty of the subject—nothing about that, even though the United Nations has done a considerable amount of work on that whole area of what is proper and what is not proper with respect to the rights of citizens when they are in police custody.

There is an immense amount of material which would permit us to have the most up-to-date code of the responsibilities of police officers and the responsibilities of citizens, as against that responsibility in the exercise of the difficult and multitudinous functions which the police must

perform.

There are some basic texts that are available, for example. There is the UN Code of Conduct for Law Enforcement Officials, setting out certain basic tenets of the kind of concerns that should be expressed. There is a United Nations report on a body of principles for the protection of all persons under any form of detention or imprisonment.

All of those are matters which, in my view of the existing regulatory authority, it is possible for us to deal with. But I keep hearing—and we heard again today, as we did in 1983 and 1982 and earlier—that somewhere, some time, after you have decided exactly what the text of the Police Act will be, it will surface in the Legislature, we will go through the ritual of having hearings, nothing will be changed, and the bill will be passed into law. That is the normal process which takes place here.

We must have a draft act, and I urge the Solicitor General to get it out now and let some people look at it. I would hope that at least during this session of this parliament he would get a

draft of that bill out before the public.

Again, sir, I guess I will await the event for the Private Investigators and Security Guards Act. If my recollection is right it was the then Solicitor General, Mr. MacBeth, who introduced a first draft of the Private Investigators and Security Guards Act.

The only other comment on what I am particularly interested in—I may have missed it, and it may have been public information, but at this point I really do not know—is what did happen in the hearings on Securicor.

The Solicitor General will recall that he made a statement about Securicor, about the hearing that was to be held and what the decisions were to be. I would ask him to get out, for public scrutiny and

concern, the Private Investigators and Security Guards Act. I think it is absolutely essential.

I am one of the few people who keeps the Solicitor General's speeches, and I have three or four of them here. In some of them, there is a certain repetitious ring which is almost poetry. I would like to touch briefly upon that.

I have now found the regulatory power under the Police Act. The one I was particularly referring to, about police notebooks, was "prescribing the records, returns, books and accounts to be kept and made by police forces or the members thereof."

The other area where there are no regulations of any kind, and yet the Legislature passed the Police Act and provided the regulatory power, is "prescribing courses of training for members of police forces."

I am not saying for one moment that there are no courses. All I am saying is that they are not prescribed, and it was the intention of the Legislature, when it granted the regulatory powers, that for practical purposes the regulatory powers be used.

There is nothing I know of which provides for regulations for governing lockups, and that is another power.

I have gone on sufficiently about those items. If the minister will give me a moment, I would like to find his speeches, which I have kept.

The one I read with a great deal of interest was the one he delivered to the International Bar Association conference. It was singularly unique in that there was not a single reference in it to his role as Solicitor General. It had all to do with the economic and cultural attractions of Ontario and Toronto. That was on October 6, 1983.

I imagine that was probably one of the speeches the Solicitor General prepared himself and delivered on that occasion. I doubt whether—

Hon. G. W. Taylor: Did it have any prose that was different or that attracted your attention?

Mr. Renwick: I doubt if you recall it.

Hon. G. W. Taylor: I do recall it.

Mr. Renwick: There was not a single, solitary reference to your role at all. You would have thought that—

Mr. Boudria: Was that the one where you said hello to your mother?

Mr. Chairman: They knew who he was.

Mr. Renwick: You would have thought he was the Minister of Industry and Trade, or the Minister of Citizenship and Culture, or the Minister of Tourism and Recreation, but you

certainly never would have known that he was the Solicitor General of Ontario.

Hon. G. W. Taylor: I was not making it as Solicitor General of Ontario. Indeed, I was making it on behalf of the Minister of Industry and Trade (Mr. F. S. Miller), filling in for him.

Mr. Renwick: Well, I am delighted.

Hon. G. W. Taylor: You even recognized the different prose. I doubt whether I put a great deal of work into those words on the printed paper, but I do not always follow the printed paper. You can accept those words as said at the conference.

Mr. Spensieri: Do you adopt the answers? Hon. G. W. Taylor: Yes.

Mr. Renwick: Certainly there were some recurring themes in the speeches you gave on June 21, 1983, to the Ontario Association of Chiefs of Police, on September 26, 1983, to the eighth annual symposium of provincial police commissions, and on September 22 to the annual training seminar and workshop on organized crime at Niagara Falls.

There have been a couple of recurring themes, and I do not believe there is any reference to any of them in your speech on this occasion and perhaps you would comment on these matters. You were up front and centre on the question of pornography, videotapes and obscenity. I do not believe in your statement on this occasion there is any reference to those matters.

I have never been quite certain where you stand on the question of the proposed definition of obscenity, which is up for revision in the Parliament of Canada. I am not quite certain what your thoughts were, other than a certain sense of abhorrence, which I guess we all share, but I have no real sense of where you stood on the vexed question of what is freedom of expression and what is not freedom of expression.

I have no idea whatsoever whether you have any role to play in the proposal which your colleague the Minister of Consumer and Commercial Relations (Mr. Elgie) released a couple of weeks ago, when he spoke on a Sunday to one of the Conservative women's associations at the Royal York Hotel. He let us in the Legislature know what the proposed amendments to the Theatres Act would likely contain.

You have been very silent on that matter just in the last while, when you were up front and centre on it for a considerable time.

4:40 p.m.

Mr. MacQuarrie: That was not his discourse at Timothy Eaton Memorial Church, I guess.

Mr. Renwick: He must have had to leave that service early that day to get to the luncheon at the Royal York Hotel, after he issued the press release on the Friday to let them know.

I do not know whether you noticed that the Toronto newspapers were covered with the story of what the minister was going to do in the field of videotapes. His ministry expressed complete surprise that the media paid that much attention to it.

In any event, the other area on which we have had no comment is one that I raised a year ago, when there was some serious concern and comment about it. I refer to what was then federal Bill C-157, establishing the Canadian Security Intelligence Service, and at this point the revised bill, and what the position of the Solicitor General is with respect to that bill.

I think of the various other items you have touched upon; I am sure we will come across them in appropriate places in the estimates. There were references in practically all your speeches and some reference in your opening statement to the question of domestic violence and child abuse and questions related to those matters, which I think deserve a comment during the course of these estimates.

The other matter about which I would ask you to express a very positive view, because I think it must be of immense assistance to the police, is the whole question of maintaining and developing in whatever revised form is necessary the question of bail verification and bail supervision programs.

Questions on this have been raised again recently in the House, by myself and others, to the Provincial Secretary of Justice, who I know has the carriage of it. I know there is a very clear letter in existence from the Metropolitan Toronto Police, indicating that the load of work which is done so well by the Toronto bail program will have to be picked up by the Metropolitan Toronto Police or be disregarded entirely by them if an adequate bail supervision program is not maintained.

If you were to ask in Sault Ste. Marie, Ottawa, St. Catharines or Kitchener, I suggest you would get the same kind of response, that those programs were of significant assistance to the police and to the courts as well as to the administration of justice generally.

The other item I would like to ask about is that last year you provided us with a brief sheet of response with respect to the status of women crown employees in your employ, and on May 26, 1983, you provided us with this statement of

female participation in the Ministry of the Solicitor General from 1982–integrated payroll, personal and employee benefits system data.

I think it would be helpful if we could have some kind of uniform response this year to that statement which you had provided, so that in a consistent way we could look at what progress is being made each year on the question which was referred to in your statement about the accelerated action program for women within the police force.

At this time, when the OPP are before us, I would like to indicate that, within the limits of time and the somewhat limited assistance available to me, I have tried to look into the question of the police use of polygraphs. To the extent that I am able, I am determined that this matter will be thoroughly debated to see whether there is any conceivable merit in maintaining the polygraph for use by the police forces.

We touched upon it briefly when the amendment to the Employment Standards Act was before the committee, outlawing the use of polygraph tests with respect to all areas of employment. I gave notice, and I would like to give notice again, that when the Police Act comes along I will certainly be moving an amendment.

I would like to have some understanding. I would like to indicate the kind of information I have been able to obtain that casts very serious doubt on both the ethical use of polygraphs and, if I may use the term, the pseudo-scientific psychological pressure the polygraph exerts on members of the public who are subject to that kind of suggestion or recommendation by those who are interrogating them or, indeed, by the lawyers who are advising them. That causes me a great deal of concern.

I was shocked to find that the government of the United Kingdom for practical purposes disbanded the union in the security services in Britain because President Reagan had brought pressure to bear on the British government to make certain it maintained the use of the polygraph in its intelligence services. It was a most discouraging and upsetting example—

Hon. G. W. Taylor: He has not called me, Mr. Renwick.

Mr. Renwick: He has not called you yet.

Mr. Chairman: Is that documented, Mr. Renwick? Is it documented anywhere about the polygraph and the intelligence services?

Mr. Renwick: I can refer you to my current bible of information, the Guardian newspaper, which I think is a fairly reputable newspaper. It

had a number of statements. They did deunionize that service. The basic reason, as far as the reports available in the Guardian are concerned, was that the initiative had come from the President of the United States and the Central Intelligence Agency.

It was a condition precedent to the continued co-operation of the two security services that it take place. That caused serious problems within the union at the communications centre at a place in England that escapes me. I am glad to see the chairman has seen or heard of some references in connection with it.

There was a fascinating program on the late night show on channel 7 one night. I asked our legislative library research people if they would be good enough to get me the transcript of the pros and cons of the discussion that took place on that program by some very reputable people on both sides of the question of the use of the polygraph for police work.

There is a reference this year, a short paragraph, in the report of the Solicitor General, under the heading of the Ontario Provincial Police, to the polygraph section of the OPP. It is a matter I would like to raise and have a discussion on at the appropriate time.

Mr. MacQuarrie: One of this committee's few mistakes was passing the polygraph bill.

Mr. Renwick: I recognize that. I also recognized your absence when that vote was taken on a certain amendment to the Professional Engineers Act.

Mr. MacQuarrie: The Professional Engineers Act; you are quite correct. I was absent; deliberately so.

Mr. Renwick: I am not certain whether you can categorize that as a mistake.

Mr. MacOuarrie: That was no mistake.

Mr. Renwick: That was no mistake.

Mr. MacQuarrie: It was quite deliberate.

Mr. Chairman: I remind you this is on the record.

Mr. MacQuarrie: I realize that. I have no hesitation in putting it on the record.

4:50 p.m.

Mr. Renwick: I am not throwing stones. If our party were ever over there, I might have occasion to absent myself from the odd vote, along with the member for Durham East (Mr. Cureatz) and yourself.

I would also like to raise, as I have on other occasions, the question of Indian policing. I am most anxious that we thoroughly understand that.

I had the opportunity of speaking with the deputy about it, and he informed me what the status was, but I would like to have that on the record.

In closing my opening my remarks—there is just such a vast number of things one could touch upon—I would like to make a comment with respect to the Indian policing matter. My colleague the member for Lake Nipigon (Mr. Stokes) gave me a letter he had received from Mr. Archie H. Stoney, a Kayahna resource worker, Fort Severn Indian Band via Pickle Lake, headed Policing and Court on Reserve. Rather than have me read it, perhaps it would be convenient if the clerk could have copies made for each member of the committee and for the minister and his advisers as well; then at an appropriate point we could discuss the comments that were made in it.

Interjection.

Mr. Renwick: Is there? May I just look at that? My private security investigator here has told me I have some handwritten notes on the back. I would not want those to find their way into the government file. They are totally indecipherable to me.

Mr. Chairman: If you cannot, no one else can. You are all right. It is in code.

Mr. Renwick: It is probably some secret intelligence data.

I did want to be brought up to date on that because it is a matter of very serious concern as to where we now are. I have a big document here, an evaluation of the Ontario Indian constable program of January 1983, and I think we could usefully spend some time on that question.

I could raise any number of matters, but the only other one I want to mention at this point is the status of the investigation of the Church of Scientology, which was the subject something over a year ago of the massive execution by the police of that search warrant. I would specifically like to know what the status of that investigation is and I would also appreciate a statement as to what part, if any, of the material that was seized by the police under that search warrant has been returned or what requests have been refused. What is the status of any court proceedings with respect to the validity of that search process?

Those are the matters I would like to cover. As I say, one can go on forever. What is the actual position with respect to the Sunday closing cases? Are all the cases currently being held in abeyance until such time as the Court of Appeal renders its decision or until ultimately a final decision is made? What should merchants in my riding, for example, do when served with a

summons to appear? Are they automatically deferred when the cases come to the court?

A particular merchant in my area was served with four on four consecutive Sundays and is somewhat concerned about it. I would like to have a clear statement on whether there is a moratorium on processing those charges until the Court of Appeal has made its decision on what exactly is the situation and the minister has restated his position on the question of the Sunday closings and the problems my friend the member for Yorkview (Mr. Spensieri) also referred to.

Mr. Chairman: Thank you, Mr. Renwick. Before we proceed, Minister, have you any remarks to make to Mr. Spensieri's concerns?

Mr. Boudria: Mr. Chairman, if I may speak very briefly on behalf of Mr. Spensieri, he had to go up to the House to see how another matter he wants to speak on is doing there. He will be gone for only a matter of a few minutes and will be right back. It is not that he has absented himself for any long period of time. It is just that he is called upon in two places at once.

Mr. Chairman: There is another matter you brought up. You would like to discuss the French-language issue.

Mr. Boudria: I wanted to ask the committe whether tomorrow morning we could have some discussion on the French-language issue in the Ministry of the Solicitor General, a subject which does interest me and my constituents a lot—the services in French of the ministry. I do not have all the documentation with me today because I did not think we would be having time to do that this afternoon.

There is another matter I wanted to raise, but I think we should wait perhaps until the minister replies to the opening statements. I wanted to talk about the boats.

Perhaps the minister would like to reply to the opening statements first, or would the chairman want me to raise that now and then the minister can reply to everybody at once?

Mr. Chairman: I think that possibly we should deal with the concerns that both critics made and then possibly we would be able to deal with the French-language issue and any other issue such as the boat contract—I guess you are talking about eastern Ontario. We could possibly discuss that a little later.

Mr. Boudria: Fine.

Mr. Chairman: I have no indication when Mr. Spensieri will be back. Are there any

concerns of Mr. Renwick you could reply to until Mr. Spensieri returns?

Hon. G. W. Taylor: Mr. Chairman, I was going to try to do them in the same order they were put in so there might be some flow to the information.

Mr. Chairman: Yes, I understand.

Hon. G. W. Taylor: I did want to deal with them when Mr. Spensieri was here.

Mr. Chairman: I agree.

Hon. G. W. Taylor: I could get started on some of Mr. Renwick's items and then get back to the others, if that is satisfactory to the committee.

Mr. Chairman: Sure.

Hon. G. W. Taylor: Mr. Renwick's initial point yesterday was that of police pursuits. Like him and anyone else in this committee, I never appreciate—I guess we do appreciate but do not like it—the end product of some of the pursuits when they result in injury, death and even have the lesser result of property damage.

The member asked me for-and we will get these for him but by the dates he has given us I think he has them-the latest guidelines on police pursuits. We have produced those guidelines. For the new recruits particularly, a little over a year ago we started a defensive driving course at the Ontario Police College. All new recruits will go through that. I emphasized at the time in my statement introducing that course that it is not a pursuit course as such, but it is a defensive driving course to improve driving habits and knowledge of the use of automobiles and provide driving experience for new recruits.

When a police pursuit results in the death of a person involved, be it a police officer or a member of the public, one of the major newspapers usually puts out an editorial saying they should be discontinued. The Metropolitan Toronto Police have guidelines and the Ontario Police Commission have issued guidelines through the different police forces.

5 p.m.

The guidelines are such—and I have made comment on them—that they give the officers a great deal of guidance, as would be expected. As with many other police duties, however, it boils down to the situation at the scene, to a judgement call by the officer, a judgement call on the facts the officer sees, whether to engage in a pursuit, to continue the pursuit, to disengage from the pursuit, to call in assistance, to have someone set up roadblocks or to bring in some other form of surveillance.

I have seen the suggestion by some news media people that we use helicopters. In all seriousness on the subject, we do not have helicopters flying around the community. It would be difficult to warrant their use in a pursuit, particularly in a metropolitan area. I am sure the Metropolitan Toronto Police do not own a helicopter, so that would be the number one deficiency of the suggestion in that regard. The Ontario Provincial Police do; it is for search and rescue. I suspect at different times we may use it for pursuit but probably never within a metropolitan area.

We have used roadblocks and alternative suggestions at times and we have used radio communication in police pursuits. All those recommendations have been used. As the pursuit commences, they are in contact with their radio dispatcher, often with a senior officer who assists them, provides them with information and brings other cruisers, automobiles and police into the situation. Again, there is always the determination that the police officer must make this decision.

We have many statistics on the number that are commenced, the number that are disengaged, the end product in regard to damage to automobiles and damage, injury and loss of life both to officers and the public. We keep statistics on the arrests that are made, arrests from which significant criminal charges are laid.

There is always a question of whether to commence or whether to disengage. One can see certain situations, I am sure, in which the officer might say: "I will just take down the licence number and run it through the system, and maybe at some point we will find that automobile and the driver involved. If we do not follow that automobile," to give the example of an impaired driver, "maybe that person on the way home may not injure somebody as a result of impairment."

We have changed the laws in regard to people who try to avoid police in a pursuit. We increased the fine and the consequences of trying to avoid the pursuit by the police. I do not know how much this has done, whether it has improved the situation or not, but it was an alternative.

The police community will say, and I think I have to agree with them in this regard, that we cannot ban pursuits as such, and that has been suggested. We cannot ban them outright. They refer to it as really tying one hand behind an officer's back. If we were to put an outright ban on them, that would be the end product.

There are also, I am sure, situations in which we would hope the guidelines would produce the

result the public wants—less loss of life and less injury both to police and to the public. There have been times when I have instructed the Ontario Police Commission to talk to other people about it. We have to keep re-emphasizing these guidelines, we have to make the officers aware they are there, we have to make them aware of the inherent goodness of the guidelines and of the judgement they confer on the individual, but we also have to make them aware that their actions in a public place could cause some consequences that we and other people have criticized.

With respect to police pursuits, I suspect that whoever holds the office of Solicitor General, whoever is the chief of police, whenever a board of commissioners of police or anybody else is responsible for policing, there will be the ongoing discussion on whether or not to have police pursuits. I suspect that will continue as long as we have them.

Mr. Spensieri also raised the issue of police pursuits, as did Mr. Renwick, so I will continue with and complete Mr. Renwick's and Mr. Spensieri's questions. Mr. Renwick wanted certain facts made available to the public at the time of the police pursuit. I will discuss with the Attorney General the items he has discussed there. He asked me to do that.

There are several specific items Mr. Renwick said the public must be made aware of immediately. I am not so sure, and I know he used the term "immediately." In my own mind and in the minds of those who advise me, there is some reservation about whether the public needs to have or would be better served by having that information immediately. I think he said it would not be available until the criminal charges, if some flowed out of it, came to light.

Do the media need it immediately because the story is hot? Is the information newsworthy only at the time of an accident? Is it the public that needs to know? I suggest that I myself, Mr. Renwick, Mr. Spensieri and the rest of the elected members are the public. It becomes available to us at some time. I do not know whether any of us needs it any more urgently than the media, whether that is the feature of why they need it at the earliest moment.

I happen to receive in reports all he was asking for, except for the one part, and that is the part in which I would consult with the Attorney General as to whether one could lose. I put that out at this time.

Mr. Renwick talked about the vehicles involved. That usually comes up immediately in

the report. He talked about the distance covered. That is there. The time of pursuit, commencement and discontinuation, date of pursuit, the area of pursuit, road traffic conditions, speed of automobile being pursued are all generally reported in the media. They are usually discovered and are usually available.

The one he asked about that causes me some concern is the one on which I would have to consult and obtain legal advice—the reason it was commenced. That may be the one that would come out later. Why it may not be given at an early date may come out later in a criminal prosecution or in some other court proceeding or some other forum. That is the one I would seek legal advice on.

The other is factual, pretty well as he stated unless he considers the reason for commencing a chase factual. I am not so sure that is factual compared to an opinion or a judgement call of the officer on why it was commenced or maybe why it was discontinued.

We keep statistics on it. They are bald statistics that show us what did take place. When I say they are bald, they are sometimes hard to analyse because we always have criminal activity statistics in police statistics. How do we analyse them? Are we having a better year or a worse year? Is our education to them improving? We only try to guess that.

As I have said, I will try to get the Attorney General to provide us with an opinion on how much of the information can be released at an earlier time.

Having finished with my brief comments on police pursuits, I will go over to Mr. Spensieri's questions.

Mr. Renwick: Could we perhaps finish that police pursuit question?

Hon. G. W. Taylor: Yes, it is up to the chairman and his colleagues here.

5:10 p.m.

Mr. Renwick: That is fine. It is obviously all right with him.

Hon. G. W. Taylor: Mr. Chairman, Mr. Renwick wants to complicate it.

Mr. Renwick: I just want to make a brief comment so you are clear. The point that seems to me to be so important is there must be a backup control of that pursuit if at all possible. In other words, there must be somebody out of the game who can call it off, even though the officer is engaged in the pursuit.

I believe that is inherent, or is supposed to be inherent if I have the right information, in the

guidelines propounded by the Ontario Police Commission and in those of the Metropolitan Toronto Police, but it is nowhere near as clearly stated as I would like to see it.

It is that sense that with the communications networks available now there should be a control that can override a pursuit and ultimately has the final authority to call it off. If an officer is involved in something like that, his judgement may get somewhat clouded. Someone sitting back could call it off and say: "We will pick up these guys some other time. We will get them an hour from now because we know the plate on the car."

I do not want to overemphasize it, but that is my concern.

My second point is I believe it would be helpful if each member of this committee—that is, the permanent members of the standing committee on administration of justice and the critics for your ministry—had the up-to-date guidelines, with a date on them, of the Metropolitan Toronto Police and the Ontario Police Commission. Many of the other municipal forces model their guidelines on these.

Hon. G. W. Taylor: Yes, we will provide members of committee with them. As you probably recall, the guidelines you have were developed after reviewing the guidelines of all the other police forces in North America and trying to put together 1982 guidelines. As you are aware, it is in there, and most police forces have the provision, that, if the car is in radio contact during the pursuit, the responsible officer can be told to discontinue when the safety of the public is a concern.

It is not the total reason, but I mentioned earlier that in one situation two murder suspects were caught in a police pursuit. Many other pursuits are abandoned because of safety considerations. These are the two major extremes of reasons for the pursuit.

I was asked for a number of statistics on police pursuits yesterday. I will also provide them to the committee. A member of the media asked for them and had them when I was asked for them yesterday during the opening statements. I will provide you with a copy.

The statistics were prepared and tallied by the Ontario Police Commission to show the number of pursuits, the number that are abandoned and such things as when firearms are involved, or impaired drivers, or drugs, when citizens are injured and property damaged. They provide a little more detail, showing percentages and the charges that flowed out of them, as well as the

percentages of those charges. It gives another picture of what is taking place.

I hesitate even to comment. There was a comment in one of the newspapers about taking down the licence number and later on having an investigation or charging the person with the offence.

A piece of legislation that comes close to my area, was passed in regard to offroad vehicles. They are making the owner responsible for all offences, whether or not that person was the driver of the vehicle.

One might even consider extending that—and one might not like it—to vehicles on the highway and see whether that would be acceptable. I am sure you would not find that acceptable.

Mr. Spensieri: While we are on the topic and while the ministry advisers are here, in some of the other jurisdictions, notably United States jurisdictions, they have come to the conclusion that the reason for the commencement of the chase, however significant or insignificant it may be, ought not to be the greatest determinant for engaging or not engaging in it.

What I am getting at is, if you engage in a high speed search because you suspect that a very serious crime has been committed, say a bank robbery in which a person has been killed, to what extent is that still the predominant motive or the predominant reason for commencing these chases?

I am really asking a question of practice, because my submission would be that the reason ought not to be the guiding factor as to the length or even the commencement of the chase. I wonder, from a practical standpoint, what in fact happens.

Hon. G. W. Taylor: I have had reservations when I have looked at the statistics and I am sure you have. As you have just asked, should all police pursuits be commenced? You do not always know. Some just commence as potential traffic violations and they end as potential traffic violations. Greater criminal charges flow from others.

If you were to look at the statistics you might say that, since a lot of them end up-all of them are not high speed pursuits, they are pursuits—with highway traffic offences, perhaps we should not have any pursuits because most of the causes are just traffic offences. That will skewer the statistics in a strange sort of way compared to whether they are all high speed pursuits.

In highway traffic speeding offences, the automobile might have to engage in pursuit at a greater speed than the speed limit, and thus it shows up in the statistics. In looking at them you might say: "Most of them are highway traffic offences. Let us cut them all out."

That is why I offer you the statistics, but I think I have to caution you in that regard because the ones that would turn into very serious offences and be suspected of serious criminal offences start moving down in percentage numbers. That might lead you to conclude that there should never be a high speed pursuit. I just caution you before I give you the statistics and you analyse them.

Mr. Spensieri: I am merely saying that the seriousness of the reason for commencing the chase may be the least important consideration when engaging in it. For instance, if a bank robbery has just been committed at the corner of King and Bay during rush hour, and you are certain that the individuals involved are operating the vehicle, however important that reason may be it may become insignificant in relation to the potential dangers at that location and time, and so on.

I am wondering what the Solicitor General's directives are with respect to a situation where there clearly is a valid and good reason, a probable and an identifiable reason, and yet that is not supposed to be the overriding concern at that point.

5:20 p.m.

Hon. G. W. Taylor: I do not think it is the least or the overriding one. Public safety should always be uppermost. I have not read the guidelines recently, but I do not think any one has any greater variance. They are all there as guidelines. I am sure that either the officer controlling the pursuit or the one in pursuit should immediately resolve that this is too dangerous, and not always are they measuring what they might get out of it.

You used the example of a bank robber, but there are many other lesser offences that involve pursuit situations such as the impaired driver—the example I used earlier. If you use the other set of statistics, knowing the damage that is caused by impaired drivers on the highway, the question becomes how quickly can you get that car stopped and off the road to prevent any damage that might be caused.

I have, I suspect, the same emotional difficulty you have in assessing what is going on in supporting the guidelines. I have that same emotional dream about the impact of some of these pursuits. However, one knows they have to be continued—at least for the present.

I know they give some courses in the United States—I have not pursued those yet—that teach other techniques of driving. I think one is referred to as "slow pursuit," in driver terminology. We have not studied that thoroughly yet. It is not high speed pursuit but it produces about the same result with a slower speed.

I do not know any more than the terminology on that. I have only seen a newspaper article about it, but some are experimenting with that. I hope we will be able to have someone review it and see if that can be a method of training to improve the situation.

Mr. Spensieri: We would, of course, appreciate the literature if it is available.

Mr. Renwick: The point I am concerned about, in a professional way, is compliance with the guidelines by the police. The backup part, if I read this properly, clearly says that one of the responsibilities of the dispatcher is that he may direct the termination of the pursuit when it appears prudent to do so.

Backing him up, assuming there is time for these things, the supervisor has certain responsibilities, one of which is to order termination of the pursuit as circumstances warrant. It seems to me it is that controlled professional procedure and competence that is most important. It is not a question of whether there should be police pursuits or not; it is a question of the way in which they are controlled in a professional way. One makes certain that none of the human instincts of the officers involved is engaged in the game but that they are pursuing it on a professional basis with proper backup authority. Also, someone can call off the pursuit for any number of reasons.

That is the thing that basically always bothered me and I have only been involved in three. One was the pursuit in 1980 in my riding on those narrow streets, just when the schools were opening. Another is the one I detailed in the estimates last February, where the car was stolen from the police station and within seven minutes it was a long way away and a death occurred. Then there was the one which occurred the other day—the one on which I deferred to my colleague the member for Algoma (Mr. Wildman). They come up from time to time.

I certainly do not believe there should be no police pursuits. I would just like the public to be satisfied that there is a professional framework within which they are carried out and that the officers are professionally trained to abide by that process. Then, when it is all over, the reports that are called for will indicate quite clearly to the

public that it was done in accordance with the rules. It is the professionalism of it in which I am interested.

Hon. G. W. Taylor: That is the purpose of the report. The reports are received, analysed and checked against the guidelines to see if they were followed. Then, of course, it forms a history for us and the other part of it is the production of statistics.

Mr. MacGrath is here and he is on the police commission. That is where the reports are filed. If he can add anything to my comments he is most welcome to do so. Mr. Shaun MacGrath, chairman of the Ontario Police Commission.

Mr. MacGrath: The forces in the province are adhering to the guidelines. When our inspectors go out—and each force is inspected at least one a year—that is one of the major things we look at.

Once a pursuit is initiated, the driver of the police car is obliged to be in touch with his supervisor, not just his dispatcher. We receive a report within 24 hours, and we do measure them accordingly. As far as we are concerned, the guidelines are being adhered to.

The chiefs themselves are very concerned when death or injury does occur. I do not want to take from the minister's offer to supply figures, but approximately 22 per cent of all initiated police pursuits are abandoned as a result of a direction from either the dispatcher or the sergeant in the police station for one of various reasons, such as safety to the public, being in a built-up area and so on.

Mr. Chairman: Anything further on this subject?

Hon. G. W. Taylor: Yes, I have answers to some of Mr. Spensieri's comments. He mentioned a term I used in a speech. I referred to the ministry as "crisis-oriented." It is, by its very nature, in that we deal with public safety and emergencies, police matters and firefighting. I used the term, if I remember the speech he took it from, in regard to the lateness of—or as has been asked, "When will it be coming?"—the amended Police Act and other pieces of legislation.

In many crisis situations, including even questions by the opposition members in the House where there may be a crisis of time, from time to time we have to receive legal guidance, legal opinions. We have three solicitors in the ministry who provide a lot of information and answers to many other police forces and to the queries that come in regularly as to what might be the law, say, in regard to the Retail Business

Holidays Act. They often have to deal with these items of law.

I put this information to you, not in any apologetic way and not as any plea for consideration, but just to inform you about what happens when you ask questions on Orders and Notices or question me directly, or as I see Mr. Spensieri put in prior to the estimates opening, a page of some 25 questions. First, we do not keep this information on a regular basis. Second, it is available to us in no other way than by going to the person who is performing that duty and saying: "A member of the Legislature asked this question. I know we do not keep this information in this form, but would you get it."

They have to go off their regular duties to provide that information. They are always willing to do it, but it means you slow down what might be considered regular duties. Even the government members ask questions of us at times. I remember the chairman asking one about oil and gasoline. We had to prepare quite an extensive reply on oil and gasoline use by the automobiles of the Ministry of the Solicitor General. Do you recall that, Mr. Chairman?

Mr. Chairman: Yes

Hon. G. W. Taylor: All those have to be produced. We try to give the information. I recall that one had the touch of humour. I think you were asking about transportation or wheeled vehicles and one person put in, "One pushcart, two drops of oil on the wheels each year." The staff do have some sense of humour when they produce the answers. There is a lot of work to do in producing this information.

5:30 p.m.

When I say "crisis," you take people from doing their regular jobs to handle a crisis or crises and thus slow down the production of the things that are ongoing. You also mentioned that it is a crisis situation and we do not have any long-range planning. I mentioned our long-range planning a couple of time in the opening statement.

Some of it will be in the form of a reply when we talk about French-language services. We recognize the needs and the improvements that have to be made in French-language services, so we have put a person in that position. There is also Sherry Baker in the affirmative action situation.

In the past year we have had a reorganization in regard to the ministry itself in structuring the responsibilities of the deputy minister. We have put new people in. We have a new deputy minister, a new director of administration and a director of policy development who is a seconded individual. We will be seconding other people from the different phases of the ministry to obtain their guidance on policy.

A management review process has been put together. There was a seminar on the entire industry with their comments. A management review was done. We have information technology. Computers are being purchased and we have a committee on that.

I think we have put together the long-range planning, and that flows into all the different areas, whether it be in crime fighting, crime intelligence or the educational process. We try to keep our people well educated in the highest courses and on the information available to them. I think we have long-range planning that serves the ministry very well.

Another item you talked about was organized crime. You mentioned that because of the nature of our funding, our commitment to fighting or diminishing the amount of organized crime was related to the amount of direct funding in the ministry.

We have direct funding in that area with regard to the ministry; but we also have a lot of what one might call indirect funding, because we fund many of the municipal police forces that have criminal intelligence, crime fighting and investigative or intelligence bureaus in their operations, whatever label you want to use. In a way, that is indirect provincial funding.

Recently in Metropolitan Toronto, Chief Ackroyd gave out information about their budget in regard to police intelligence work. It was a sizeable portion of their large budget. All that becomes part of the fight against organized crime.

In regard to organized crime, we have people who involve themselves in the ministry, on the Ontario Police Commission and in the Ontario Provincial Police. We have the deputy minister and one of our leading investigators in the Ontario Provincial Police who serve on the Enterprise Crime Task Force, and I might add they serve well there. It is being funded. Granted they are doing other jobs, but all that works into the funding.

We have the Criminal Intelligence Service Ontario, under the guidance of the Ontario Police Commission. We often supply equipment, cars and backup people through joint force funding.

All that is against organized crime. Although one might not be able to extract the exact dollars that are funded, there is direct and indirect funding. You commented, and I am pleased to see we have your support, that we should have a public inquiry on organized crime. I am pleased you have supported our position. We have not been anxious to have one, bearing in mind the results historically that have come from the situations at public hearings.

You mentioned that we should have both a public complaints commissioner and some place that people could go to obtain support services if they were victims of extortion. We would hope that in situations of that nature, if such individuals were inclined to inform that this was taking place, they could visit any police operation, rather than having a storefront operation exclusively for that. I am sure that in Metropolitan Toronto, where such storefront operations are being established, that information would be welcomed.

The decision about whether one needs a specialized physical setting or, more satisfactory to you, specialized people with an understanding of this will come with time. I am sure some of the officers are fully aware of the information; they do have street contact with many people. If you would look at your own community, the Metropolitan Toronto Police is trying to get more street contact with individuals so that it can get this information, have a more social relationship with the people it is serving and perhaps build confidence and form a liaison that may facilitate the transfer of information.

I welcome your views. I will pass on to the police community that this area should be looked into further and provide them with this information. The recruits are getting more and more psychological and sociological sensitivity training.

You also spoke about the Private Investigators and Security Guards Act changes. You mentioned the investigation of dormant licences. I am not familiar with what is done at present, but I am pleased to receive the information. We will have that looked into to see whether there is the use of dormant licences that you described. It has not come to my attention and I shall follow that up.

The next item you had was the humane society. You described the lack of funding. We have increased the funding this year from the \$85,000 in the last fiscal year. As a matter of fact, maybe two weeks ago we sent to the Ontario Humane Society its funding for this year, an amount of \$125,000. The amount recognized some of the comments in the report we had done on the society and recognized that the society is performing some of the law enforcement duties

under that statute on behalf of the province, and doing an excellent job of it.

The society has hired a new investigative officer to assist it in training its officers in their law enforcement duties. He is an ex-Royal Canadian Mounted Police officer and is assisting them greatly with their training programs. I believe we are trying to put together a training program for humane society officers at the Ontario Police College.

Another item was the ambulances. I will try to get that information for you. I believe the Minister of Transportation and Communications (Mr. Snow) has a bill before the House in regard to traffic legislation. We will note your comments and look more closely at the situation in which somebody calls and the ambulance person arrives on the scene but cannot gain admission because the person's health has diminished from the time the call was made and thus there might be a consideration of trespass or wrongful entry.

Mr. Spensieri: That would be something only you or the Attorney General (Mr. McMurtry) could do.

5:40 p.m.

Hon. G. W. Taylor: It is something to make clear. I would sure hope that if I were to make that call, the ambulance attendant would not be so hidebound by law as to say, "I am not going to come in." There again, I do not want to be a total fountain of information and law to these people. I think our legal advisers, after you had asked, felt that at least the common law gave a police officer, a firefighter or an ambulance driver the right of access to a place in an emergency of that nature.

I do not know whether that means disseminating this information further to those who are in the ambulance field and saying: "Do not worry about it. You had better knock on the door, open it, then, go in and get the person who has called for assistance." That may take an educational process.

Interjection.

Hon. G. W. Taylor: As I have been informed by my deputy, Bill 45, An Act to amend the Highway Traffic Act, adds ambulances to the list of vehicles that are exempt from speed limits, if that answers the initial part of that two-part question.

Mr. Renwick: Not from illegal left turns.

Mr. McLeod: There is a procedure whereby emergency vehicles are permitted to proceed through stop lights after stopping and so on; that was already included in that list.

Mr. Renwick: I just interjected that because I have never quite understood why it would not be possible to draft some kind of general provision. Going through stop lights, for example, is still an offence, as I understand it.

Hon. G. W. Taylor: I am getting three or four opinions here. My deputy would like to offer one. Mr. Chairman, do you want to offer one too?

Mr. Chairman: I was just going to say "proceed with caution," but I should not be interjecting. The member for Riverdale should not bring up all these points.

Mr. Renwick: I am sorry. I withdraw it.

Mr. McLeod: As I understand the situation, the definition of "emergency vehicle" under the Highway Traffic Act is such at present as to include an ambulance. From that definition then flow certain rights that the driver of the emergency vehicle has with respect to going through such things as red lights—i.e., stop and then proceed with caution—that a regular driver does not have. This act is intended to deal with the speeding section.

The third point I would add is that the federal-provincial committee of officials responding to the McDonald commission report has recommended a review of all provincial vehicle legislation to determine whether further exemptions for police vehicles that are currently there may be appropriate. Whether there is any fallout from that which would provide further protection to ambulance drivers as well remains to be seen at the moment.

Hon. G. W. Taylor: I was getting intrigued by Bill 45 as well here with all its sections.

The other item touched upon by the member for Yorkview (Mr. Spensieri) and by the member for Riverdale as well was that of the Sunday closing legislation, to use the vernacular term. This is, I guess, an unfolding social phenomenon right now. I am sure both of these members know the history of the legislation.

When I am on different platforms I get asked these questions. You start with the basic premise that under the legislation, if you are trying to break it down, all stores should remain closed. Then there are the exemptions, which get into the features of convenience, emergencies and, of course, crafts and entertainment. Then you finally get into the tourist features of the bylaws.

There are some case decisions as to when a tourist exemption should be allowed, and of course some of the municipalities in passing the tourist bylaws do not precisely follow that particular court decision, which says you must show that you have a tourist feature before you pass a bylaw. If I am interpreting the case decision properly, it is not to create a tourist area; you have to have a developed tourist trade beforehand.

The member for Riverdale said he has somebody there who has had four charges already, and I know there are other people. I guess I really should not comment too heavily on it, because they are still before the courts. In their minds they are, I think, testing the legislation, which I guess they can rightfully do. However, in the process of testing the legislation, they continue the test for considerable lengths of time, having once been charged, and then seem to get upset when they are recharged.

However, all the cases that I am aware of are going together to the Court of Appeal. We will get some definitive answer from the Court of Appeal shortly, I hope, and depending on what takes place then, the government will have to

make some decisions.

The member for Riverdale asked whether there are any moratoriums. There are no moratoriums other than the one that was on the Harbourfront buildings in Toronto for a period of time because they were going to pass a bylaw exempting them. There are no moratoriums from the Ministry of the Solicitor General asking the police not to enforce the legislation. Indeed, it is just the opposite; we send out frequent reminders, both publicly and in the Legislature and through the information system of the Ontario Police Commission, asking the police to kindly enforce the laws.

I think we have a great deal of public support for that, if I can use any of the letters that come in from all areas, be they from large business operations or small business operations, from church groups of every stripe and denomination, from the labour unions and from many stores that are conducting business. I guess for all those reasons they decided to put forward the legislation; so it is there.

There are inconsistencies, as some people will say and try to define. I guess I can say they are only inconsistencies if you want to stay open contrary to the law, the principle of which is basically to stay closed. I use the inconsistency of somebody else saying, "I can go to a movie but I cannot rent a film."

Mr. Renwick: I do not have any problem with the police enforcement. My problem is basically when the case comes to court; are you staying the

proceedings on those pending the decision? That was the only question.

Hon. G. W. Taylor: I have given nobody instructions. I do not think the crown attorneys or the prosecuting people have given any instructions to stay.

Mr. Renwick: It would seem to me to be a not unreasonable proposition that those charges should be stayed pending the decision of the

Court of Appeal.

I happen to have had a word with the Chief Justice recently. I said to him, "You have had an amazing number of very interesting and very difficult cases that have gone to the Court of Appeal." He said, "And that one, I guess, they consider one of the most difficult they have ever had."

Hon. G. W. Taylor: I think I would have to agree with him if he made that statement. I would make the same statement. When you were talking about it, I commented very basically that they are not really criminal acts; they are lifestyle items of legislation that I guess the majority of the public supports.

Mr. Renwick: I was just curious whether it would not make sense to stay the proceedings until the decision comes out.

Hon. G. W. Taylor: I will acknowledge your comments. I will say it is also a feature of the Attorney General's prosecutors whether they will stay proceedings.

I might add that a lot of these prosecutions are not always proceeded with by the Attorney General's ministry but are private prosecutions.

Mr. Renwick: The particular four I got were police charges.

Hon. G. W. Taylor: I will add another matter, and this is hardly definitive. Mr. Spensieri, you talked about flea markets. There is a decided case on what happens to be a flea market. I think we are all under that difficulty of whether they are selling used or new items. I think the definition is that a flea market involves crafts and handicrafts, but I am sure you have seen or have knowledge of some where the individual sells tools; and they certainly do not fall within the definition of flea markets.

Mr. Spensieri: There are merchants in the Jane and Finch mall who are about to rebel en masse as a result of Sunday selling.

5:50 p.m.

Hon. G. W. Taylor: I have seen other information indicating that regular mall tenants are rebelling against the landlord who sells space

on Sunday to those people who carry on the same business as those who rent from Monday to Saturday. I hope that is something the tenants and the landlord will work out without too much involvement from our police.

Mr. Spensieri: But you do not see anything wrong there at all?

Hon. G. W. Taylor: I do not instruct the police to go to each individual mall and lay charges. They exercise their discretion in that situation as they do in other situations.

I have to confess I was in a mall one day where not only were they contravening the law, but also the mall owner, not knowing all the rules, had created a fire hazard and a safety hazard because of the functions that were being carried on in the centre of that mall, the numbers who were there and the hindrances of all the shops they had set up. I do not know whether the fire marshal or his representative might be paying a visit to some malls in that regard. That is another question again.

Like you, I wish there might be a more precise definition, and possibly that will come from the Court of Appeal.

Mr. Renwick: If Mr. Spensieri agrees and you think it is appropriate, would you comment on the 24-hour stores? You and I have had correspondence about that question.

I still feel very strongly that the province should introduce a moratorium on 24-hour openings until such time as there are either some clear regulations on security arrangements or some very secure guidelines are evolved. It is not a question of prohibiting them ultimately or anything like that. It is simply a question that, over a period of time, it should be possible to make certain there are preconditions to a particular store remaining open in relation to its security requirements and so on.

Mr. Chairman: Who would enforce the security regulations?

Mr. Renwick: My first point concerned a moratorium on allowing them to stay open the additional hours, whatever they are, from 11 o'clock to seven o'clock, for the purpose of having security arrangements in the stores. Then the usual enforcement people would deal with those stores when they were open around the clock or for the period when there is obviously a significant hazard to people who operate them. I just assumed the police would be the ones—

Mr. Chairman: The point I wanted to make was that we talked about cameras in the stores and how they would be very helpful during the wee hours of the morning. As you well know, a lot of those cameras are dummies and have no film in them, for a lot of reasons. Who would make sure the film would be in and so on? That is what I am trying to ask.

Mr. Renwick: I am not up to date on all the technology of whether that is possible. Certainly there are some very specific things that can be done. For example, it was very clear for quite a period of time that Mac's Convenience Stores—I believe it was Mac's—did not allow the operator of a store to have his desk at the front of the store. He had to arrange his store so he was at the back of the store. It immediately poses a hazard if he is not right up front and centre. I have noticed some have now been changed to put the desk right up at the front where the windows are, so if there are people around, they can see them.

I happen to think there may be some very standard security arrangements, particularly when the chains are operating a number of stores, that can be introduced to alert the public what is happening and make people who are contemplating that kind of action aware that the hazards are greatly increased to prevent their getting away with it. It may even come to the point that if they want the luxury of being open 24 hours, during those midnight to morning hours there should be two people in the store.

In that sad and horrifying case out in Mississauga, it seemed to me, from the conversation the young man had had with his mother, he was in the back of the store in the warehouse taking inventory of some sort and was not up in the front of the store at all. I do not want to belabour it. It just seemed to me to be fairly obvious that you could develop guidelines and then say, if these guidelines are in force, "Yes, you can open."

I raised this with the Solicitor General, and he wrote back saying he was not contemplating it at this time. But every time I see one of those 24-hour stores, I just hope we are not waiting for another incident where security precautions are not in force.

Hon. G. W. Taylor: I can comment briefly on that, but I was just looking at the clock. This is Thursday, and is there not a vote or something happening—

Mr. Chairman: Not today.

Hon. G. W. Taylor: Not today?

Mr. Chairman: This evening. But you are right; we are just about at six o'clock. Have you concluded on the store issue?

Hon. G. W. Taylor: If we have another few minutes, I will run off the 24-hour one.

I know that the member for Riverdale has talked to me on this matter. We do not contemplate it at present. There is a matter before the courts in a civil way on the bylaws as to whether they are effective or not. I think there was a conclusion that municipalities could pass such bylaws regarding hours at least under the Municipal Act. That bylaw feature is being challenged.

The other feature is that through our crime prevention program the Ontario Provincial Police conduct training programs. My statistics say they have educated between 6,000 and 7,000 store owners a year in crime prevention techniques; so the Ontario Provincial Police do go around.

We have had the general areas of training courses and public education, Neighbourhood Watch and increased police patrols; all of those have been carried out by the Ontario Provincial Police in the different areas. I noticed even in this morning's paper that, roughly in the area of the member for Yorkview, Etobicoke has had very good results on the Neighbourhood Watch, which again is part of this.

I do not know and I have not been contemplating whether one could get into the legislative provisions of the number of people there has to be and the type of equipment. I know the member for Riverdale and others have that concern. I know there are certain configurations that the store can be put into to help the individuals to prevent robberies. The member is right. By putting the people at the front, there is the possibility of their being viewed to give them a greater degree of safety, as compared to putting them at the back and hoping people will do impulse buying as they head to the back of the store.

All of those are being used. Again, I think the major chains support crime prevention programs, and in our crime prevention feature we will be preparing a kit to provide better information so they can protect themselves. That is the status of it.

Mr. Renwick: Have you had any discussions at a senior level in the ministry with the major chains?

Hon. G. W. Taylor: I personally have not, but our policy adviser, Phil Caney, has had

participation in the meetings that took place between the major chains that were involved in the Mississauga situation, so he is abreast of that. I see Mr. Shaun MacGrath raising his hand to talk.

Mr. Chairman: Mr. MacGrath, do you have a comment to make on this?

Mr. MacGrath: Yes, Mr. Chairman. Just this afternoon I made an appointment with the executive of the retail business owners to meet with them next week to talk about crime prevention and assisting them with this.

Mr. Renwick: But not specifically with Mac's Milk or 7-Eleven.

Mr. MacGrath: No, this would be all embracing. It is the umbrella organization. I believe they are called the Retail Merchants Association of Canada (Ontario) Inc. They are coming in next week.

Mr. Chairman: The deputy has a word or two?

Mr. McLeod: On what the minister said, at the meetings that took place in Mississauga, convened by the mayor there after the latest incident in Mississauga, I believe all three of the major chains were represented by senior officials of those companies. Both the crime prevention officer from Peel Regional Police and Mr. Phil Caney, the ministry's director of policy development, were there and explained the policy of the ministry and, in the case of the Peel Regional Police, the crime prevention techniques those stores ought to follow. Essentially, that is an educative approach to them, but through that process the chains certainly are well aware of our concern.

Mr. Renwick: I would be very interested to hear the ministry's policy on it. Mr. Caney, did you say?

Mr. McLeod: Phil Caney, director of policy development. As the minister has indicated, ministry policy is something that does exist but is also in the process of being evolved into greater detail.

Mr. Chairman: I think this would be a good point to adjourn until tomorrow morning after routine proceedings.

The committee adjourned at 6 p.m.

CONTENTS

Thursday, May 24, 1984

Opening statement: Mr. Renwick	J-27
Adjournment:	J-42

SPEAKERS IN THIS ISSUE

Boudita, D. (Frescott Russen 2)
Kolyn, A., Chairman (Lakeshore PC)
MacQuarrie, R. W. (Carleton East PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Taylor, Hon. G. W., Solicitor General (Simcoe Centre PC)

From the Ministry of the Solicitor General:

Roudria D (Prescott-Russell I)

MacGrath, S., Chairman, Ontario Police Commission McLeod, R. M., Deputy Solicitor General



No. J-3

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General

Fourth Session, 32nd Parliament Friday, May 25, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario

Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, May 25, 1984

The committee met at 11:54 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

Mr. Chairman: Minister, I think you were making a reply to Mr. Spensieri's concerns.

Hon. G. W. Taylor: Yes, there were a number of them. I think I left off yesterday at flea markets. He was then asking about an issue upon which Mr. Renwick also touched, so if I can jump past the one both had commented on, I will go to the one that was exclusively Mr. Spensieri's, that being the training, the cost of training and the payment by recruits of the cost of training.

For the members of the committee and others who may look at it, this has been a discussion point for a time. There have been questions in the Legislature on it during question period. Two police forces, those of Sarnia and the city of London, have been more concerned about it than others.

Mr. Mitchell: Would you in your comments be able to refer to the position of the city of Ottawa? I believe it has also written about it.

Mr. Spensieri: All the mayors have written about it.

Hon. G. W. Taylor: I will get down to the reason several mayors have written.

At present we have a committee of the ministry through the Ontario Police Commission. On the committee are represented the police associations, the Ontario municipal police authorities, the chiefs of police, educational people from the ministry and the Police Association of Ontario. These general concerned groups are on this committee to review the cost of training and to determine whether there should be some payment by the recruits for their training.

In his zeal to put forward his position, the mayor of the city of London, Mr. Gleeson, has sent correspondence to many of the mayors of the different communities asking why police officers should not pay for their education, as all other people pay for their education, using the example of doctors and lawyers and other individuals.

I have not changed the policy that has been in existence in the ministry for some time. When you talk specifically about recruit training, you are talking about a period of 15 weeks. It is usually divided up into two segments: one called section A, a nine-week period at the Ontario Police College; and a little later on, section B, which is a six-week period.

This is paid for out of the funds of the province, and the province sponsors the Ontario Police College with funding through the Ontario Police Commission. The recruits go there free of charge for both the educational portion and for their room and board during the nine-week period and the later six-week course. In some situations they also receive transportation money. That basically is what is called recruit training.

The Ontario Police College does an enormous amount of advanced training. Again, there is no cost for that advanced training. The individuals who attend are what we refer to as sworn, employed police officers; they have to be an employee of some police force.

The average education of the applicants for police training these days is usually two years' post-secondary education. They are usually of advanced age. They usually have some commitments. I say "advanced" in the sense they do not usually come straight out of college or high school or whatever their educational background. They do not come straight into the police college.

There is a school of thought, led, I think, by Mayor Gleeson of London, that if these recruits were to pay for their own training this would be a saving to the municipality. Since the municipality does not pay for any of the educational portion of the individuals at the police college, I would submit there would be no saving there.

12 noon

The second feature of it is that many police forces have these recruits on their staff for a time. If you use the Ontario Provincial Police as an example, it brings them in and gives them what they refer to as an orientation course. They then do a period of time with coach officers, and subsequently attend courses A and B at the college at Aylmer. Other police forces have the same feature.

The smaller forces, the forces from small communities, have a background of not charging their recruits for training. Historically, at the

time it was set up, the province and the ministry decided it was worth while that all officers receive this training. Therefore, they all went, and there was no charge to them to go to the police college at Aylmer.

I think one of the objections—and I have stated this to the mayor and to others—is that if they hire them they would have to pay their salaries during the time they were at the police college.

I have indicated to them that this is not a concern of the province. We do not negotiate those salaries. That is a negotiation done at the local level, with the local association and with the individuals. What they pay their people during that time is totally of a local concern. If they want to see any savings, this is the spot to make them. Again, that is something they can negotiate with the local association or with the individual police constables.

There are other suggestions that we should be similar to the police college in Prince Edward Island which serves the Atlantic provinces. I have studied that somewhat. Albeit their system is in a community college—I think it is called the Atlantic Police Academy—it is sponsored by the four Atlantic provinces.

Their system, though, is kind of a split which has some of the characteristics of ours.

Newfoundland sends to the police college only those recruits whom it has pre-recruited, so that their proportional share of the college is controlled by that.

A couple of the other municipal police forces do the same, such as the one in Dartmouth, which says: "We are only employing five. Here are our five." They preselect them. The others go to the college and, at the end of the period, somebody then decides to hire them.

That system would not suit us in that the Ontario Police College at Aylmer is not like an ordinary college. It trains only those who are sent to it. The need to educate is according to the demand. There may be the question that if it were to become a fully-paid tuition college, would we have similar situations—with a hiring competition at the end for all the graduates—where you could be training more than you have positions available?

We are studying it in many variations. I think the two police forces, London and Sarnia, believe I am contrary to them. We have not changed the policy. It has been in existence for some time. It is being reviewed, and if there can be some improvements, all is well and good; at the present time we would probably look at them and institute them.

At present, for a number of the reasons I mentioned to you, the cost savings to the municipality would not be there.

I did not mention one other one, a major feature of the employment of police, the prerecruit selection process. It could be psychological testing, a battery of educational information, physical testing, certainly, and any other number of pre-recruit or selection processes and procedures that are used.

If that were to be put back on to—and I will tell you that the police academy in Prince Edward Island would like to get out of that, because they have an enormous cost in preselecting, in trying to preselect for all the different police forces.

I am sure some police forces have a different recruiting desire than others. That would increase the cost to the province, to go through and perform the preselecting of recruits, with no guarantee that they would have a job at the other end.

I think the process we have at present has some merits. That does not mean it cannot be improved upon, but that is the background for training of recruits. They are not required to pay for any of their own education; we look upon it more as on-the-job training as compared to educational training in the law whereby you can attend any university and take a particular amount of information, which you can now take, say, at a community college, where many of them take courses in the law and security.

Indeed, Mr. Spensieri, I think there are some lawyers on different police forces now. They have obtained their full law degrees and decided that policing is their future as compared to the practice of law. This is more basically described as on-the-job training, which is done by many corporations, institutions and businesses. That is the background of the training and cost of training.

Mr. Spensieri: Just before we leave it, I was indicating not so much the question of fees and so on. However, there seems to be a development in other provinces—you mentioned the Atlantic provinces and certainly it exists in some of the western jurisdictions—where police training has moved away from the traditional method and been put more and more into the hands of the universities and colleges, etc.

If that trend continues in jurisdictions outside of Ontario, then I think you are going to see a larger number of qualified personnel from outside jurisdictions seeking admission into the Ontario forces.

This is what some of these mayors are getting at. They are asking, "If there is such a large surplus of already trained or substantially trained individuals out there, are we going to send out some clear directives to these other jurisdictions?"

Bearing in mind that we cannot be too clear because of the Charter of Rights that guarantees mobility of occupation throughout Canada, are we going to be sending out some signals that we are not going to be looking too favourably towards recruiting outside-trained individuals?

Hon. G. W. Taylor: We have never given that signal in any correspondence I have sent. I am thinking particularly of Sarnia that said, "We are going to hire from Prince Edward Island," and they did hire two individuals. My reply contained the quote that you have just used; that under the Constitution we cannot prevent them from hiring wherever they want. Indeed, if they have qualified individuals and so desire to do it, they can.

We have no prohibition. Indeed, we have no regulatory feature that requires anyone to have an education through our own police college. There are no regulations that "thou shalt attend and must attend courses A and B."

I do not quite think the trend you see is there, because you will find that the four provinces that support their police academy do not want to get into the process of supplying the rest of Canada. As best they can they do try to match supply and demand.

I do not want to talk too much out of school, but when others go down there and recruit, they are not exceedingly pleased to lose their recruits, because you have to be a resident of one of the four island provinces to attend.

Mr. Spensieri: Except that at the Ministry of Education level, you cannot control—

Hon. G. W. Taylor: No. That is not a fear, but a conscious concern I have had. I am not an educational critic here, but I think any of those colleges that come into the tuition style soon become the favoured sons or the property of the Ministry of Education.

I have cautioned those who suggested this take place that it could become a Ministry of Education college. Then the police community might lose some of its very desired input into the course training at this particular college. That is something I am sure the municipalities would not want and others would not want.

Mr. Spensieri: I do not want to be seen as wanting that.

12:10 p.m.

Hon. G. W. Taylor: I had one other feature about the police academy. They have different programs there that aid them.

One of the features is that a unemployed new recuit going in there receives certain compensation as an unemployed individual from the federal government and receives income while being trained. I do not want to project what the federal government would do, but I suspect the same would not be available here if we were to change our programs. Ontario would probably be one of those that would be exempt in the future, going through the training at the police college. However, that just happens to be a fact of life there.

That is the background on it, Mr. Spensieri. When the committee reports, when we hear from them, we will listen to their recommendations and see where we can make any changes. As I have been telling the many municipalities, they can negotiate what they want with their employees as they come on. As long as they are sworn police officers, we will receive them for their education at the police college.

Mr. Chairman: Might we move on, minister?

Hon. G. W. Taylor: Sure. Videotaping of confessions was the other point. No, you were asking—do you want me to continue on with this and Mr. Spensieri's comments?

Mr. Chairman: It does not matter. Mr. Renwick is here. We had originally scheduled some of the questions for Mr. Spensieri while you were away, but you may proceed whichever way you please.

Mr. Renwick: I apologize to the committee.

Mr. Chairman: That is all right.

Mr. Renwick: Life seems to be a little hectic this morning. There seems to be less information available today than there was yesterday.

Hon. G. W. Taylor: It must have been because of the piece of legislation. I have not changed my attitude at all. I am probably just now obeying the law, or the projected law.

Videotaping of confessions and interrogations—I believe Mr. Spensieri commented on that. Again, there have been questions on that area in the Legislature.

As it develops, I guess, we have two features that will take place, and I have mentioned them. One will be that, if they were done immediately, could there be challenges under the Charter of Rights? I do not propose to be an expert on the charter. The expert on the charter is beside me in the deputy minister.

I would suggest that you would possibly get challenges as to incriminating evidence when the particular confession might be videotaped. This happens at present, as you know and are aware, on anything in regard to confessions, written or not. Some of that material is controlled by the Criminal Code and by the law that has developed in the interpretation of the Criminal Code. We have not had any changes in regard to the use of videotapes.

I know that it has been used in some jurisdictions in the United States—in fact, very favourably. There is one example I saw, that when you take a breathalyser test, they also videotape the breathalyser test. They discovered a remarkable increase in the pleas of guilty when counsel viewed the videotapes and compared them to the other information. The plea of guilty goes up remarkably.

Mr. Spensieri: There is nothing wrong with that. Surely, the concern is the police conduct, which would be more—

Hon. G. W. Taylor: It is a two-pronged situation, I would suggest.

Interjection.

Mr. Chairman: Excuse me, minister. I think Mr. Renwick had a point on this particular matter.

Mr. Renwick: I am from Missouri on this one. It will take a lot to persuade me.

I can be persuaded, as everyone knows. I am a reasonably persuadable person on occasion. I am, however, a sceptic about quick fixes on this question of videotaping. There is a tendency to start to think that they are quick routes to the kinds of problems we have. There is absolutely no substitute, in my judgement, for the care and professionalization of the training of the police officers who are involved, wherever they are. The idea that there is some magic to be accomplished just leaves me a little bit concerned.

You will recall the case in Ottawa where, of the five statements, two were—I do not want to get into the details of it because that case is still going on. I did ask for a copy of the lengthy reasons the judge gave on the question of the confessions.

Anyone who thinks there is a quick answer to it, it seems to me just does not understand the immense background to the whole question of the admissibility of hearsay evidence, and the exception that, as I understand it, this is—the cases that have been involved and the care and distinctions, and all the rest of it.

I just wanted to register the feeling that I am from Missouri on this, and I am certainly not going to be one who stands in the way of somebody wanting to perhaps experiment a little bit. From where I sit at the moment, however, I would rather have the extra money which is involved go to the training and professionalization of the police than to get into that kind of solution to the problem. I would be interested in your comment on it.

Hon. G. W. Taylor: I am like you, Mr. Renwick. I do not think it is the quick fix in some situations. It may be an added piece of information or an added piece of assistance for both sides.

Using factual situations, it may in some cases assist the court, subject to it falling into all those admissibility rules. We cannot just overhaul those rules and say, "By the way, since we have video, let us throw out all the rules and video will supplant them." Those rules have been developed, and rightly so, through long traditions, judgements and guidance.

Mr. Renwick: Does your constitutional expert consider that it is a significant barrier in the charter? Is it a tough constitutional question?

Hon. G. W. Taylor: I will let him jump on that in a moment, I was just going to finish my comment.

I agree with you in regard to the training of officers. That training includes a great deal of legal knowledge of the rules of evidence and the rules of admissibility of that evidence—particularly in regard to statements, or, as they may be described, confessions, and the manner and method of interrogation. All of that will be there.

When you talk about the conduct of interrogation methods, that might perhaps be, in some situations, a benefit or a defence to police officers by their saying: "Here is the videotape of it. Here is what we did."

Then, however, I am sure you are also going to develop a whole group of laws around the admissibility of that, about how long they should be running. I could even say, "I answered because it was hot under the lights when we were taping; therefore, I gave you that answer." There are many possibilities yet to be developed.

Since the deputy is the considered expert and author on the charter, maybe he might like to add some—

Mr. Renwick: It is often a long way from the cell to the interrogation room.

Hon. G. W. Taylor: You are not getting me on that one.

Mr. McLeod: Briefly, I think the area of concern, Mr. Renwick and Mr. Spensieri, is that, prior to the charter, the law with respect to the admissibility of a statement by an accused person was, of course, governed primarily by the common law. It was governed by the standard rule that a statement must be affirmatively proved, beyond a reasonable doubt, to be voluntary before it is admissible at the instance of the crown. It was affected, in part, by section 5 of the Canada Evidence Act.

Superimposed upon that law, we now have both section 13 of the charter—which is somewhat of a parallel to section 5 of the Canada Evidence Act—and also, perhaps more import-

ant, section 11(c) of the charter.

I think that both the crown and defence sides of the criminal bar would agree that it is somewhat early yet to know what the long-term effect of section 11(c) of the charter will be with respect to the established common law principles in relation to admissibility of an accused's statement.

One could argue, for example, that, based upon the existing case law, a videotape of an accused person in an interrogation room is not the kind of oral utterance referred to in the case law as being governed by the voluntariness rule, and, therefore, might be admissible without proof of voluntariness.

What would we do, then, with an accused person who is being videotaped against his will and, although he does not say anything, obviously appears to be very nervous and exhibits other signs that might tend to suggest a consciousness of guilt on his part? It is to be hoped that kind of thing would not be admissible without some rules being laid down.

12:20 p.m.

To be as precise as I can in answering your question, all I am saying is that, at the very least, I think it is a little bit early. On the other hand, I know the Ministry of the Attorney General has been doing some work on it. It may well be they are the people with the carriage of that matter as distinct from our ministry. It may well be they have newer and fresher thoughts on it than that at this time.

Hon. G. W. Taylor: Just as a quick one and I think both critics made comment on it, and that is the Grange inquiry. I think Mr. Spensieri said I had been silent on it. The silence is naturally because the public inquiry is an ongoing matter and I think it is better that I do remain silent.

When you start a public inquiry the Attorney General becomes the person who has the conduct and responsibility for it. As you know, there has

been a recent clarification on that. I believe the member for Riverdale (Mr. Renwick) did ask questions in the Legislature on that particular matter this morning. I hope he received the answers he desired on that and the proceedings will be continuing.

You were talking about the fire code and exemptions in regard to condo units. I think you are getting into an economic problem of why some are not exempted from the retrofit, and I am not familiar enough with all of the applications of the code. When the fire marshal is here we will get him to explain that more fully to you.

Mr. Spensieri: You are not alone. There is a lot of worry out there. No one really knows.

Hon. G. W. Taylor: Each time I approach this, when the fire marshal explains it, it does not appear as harsh as others who are looking at it say it is. I do not want to comment on the engineers who are reading the fire code when they decide to retrofit a place, but someone may be looking at other reasons for the large retrofit provisions.

Mr. Boudria was going to talk about the boats contract.

That finishes it all except that you were going to come back to some miscellaneous items on Indian policing. I guess you are going to come back to that under the particular votes.

I will move on to Mr. Renwick. We discussed those, I think, in some detail yesterday, duplicat-

ing both on the police pursuits.

Mr. Renwick, you asked a number of questions on your concern for William Franklin Baker. First, I have some reluctance to answer some of them in that there presently is an Ontario Provincial Police investigation into the matter of the conduct of the officers, so that is an ongoing investigation. Naturally, when that is completed we will know the results.

Mr. Renwick: It is four weeks.

Hon. G. W. Taylor: It is four weeks. I recognize the comments and I hear them frequently. I know your colleague is going to come in and talk about the length of time.

I watch the police in their duties. They carry them out very thoroughly. To use the Niagara one as an example, there are something like 200 witnesses who have to be interviewed and have been interviewed, so it takes some considerable time in among some of their other duties.

Even as the minister, I sometimes become impatient saying, "What is taking so long?" Then I go back and ask and find out that the officer, out of that investigating time, was called three days for court and also had a day off.

Mr. Renwick: And Parkinson's law is working.

Hon. G. W. Taylor: It might be. Sometimes I cannot work and they cannot work to the pace of the desires of individuals to have their information instantaneously, particularly sometimes in regard to the media.

You were commenting about my comments, publicly and in some of my speeches, and those of the Attorney General (Mr. McMurtry) and Mr.

Walker, regarding the parole system.

I do not believe any of my comments were directed at all to the judges, to the manner and method of appeal, nor should there have been any implication there, but directly to the parole law as it exists federally.

Mr. Renwick: I understand that. That was exactly my concern. If there is something wrong with the sentencing, you had better start dealing with the judges. That was the problem. Then my other concern was whether or not it is proper to use the Stephens case as an example for the purpose of whipping the National Parole Board or the Solicitor General of Canada.

Hon. G. W. Taylor: I think I used the day pass one and did not use any particular names. In effect, I think the public expect, and if they do not have the knowledge they desire a change in the parole system whereby, as I have heard commented, somebody does not get extra days off just for being there.

I do not think the public expect the law to be that way. When I speak in regard to the disappointment of the police community, I think there is a feeling in the police community that they would like to see some changes in the parole system. That is why the comment was really directed to the federal Solicitor General to look at the law itself regarding parole, not the actions of the parole board—it has a discretion in there which he should not be interfering with—and not the sentencing by the judges, albeit some, as you have said, may consider the parole features when they sentence while others may not.

They do not mention it in their sentencing generally. It was really not any criticism of the judges, but a criticism of the parole system itself.

You asked about the status of freedom of information. Since you asked those questions, there has been a change in the status of freedom of information in that there has been a piece of legislation added.

You also asked a great deal of information on personal information systems.

Mr. Renwick: I was talking about the banks you maintain.

Hon. G. W. Taylor: We will update the information on that.

Mr. Renwick: Can the individual find out?

Hon. G. W. Taylor: You were asking some specific ones, so I will have to research the availability of the specific items. The original report as filed has had some changes to it since that time in that the report had some inaccuracies in it. I have explained that at another time. We will get the details.

Mr. Renwick: Could Mr. Spensieri and I have copies of the up-to-date one?

Hon. G. W. Taylor: Yes. There was an answer to just one of them which was, if my memory serves me correctly, concerning a complaint against a police officer. I think the wording in there indicated that all these items would be stored on file. If I remember a generality, it was that all those items would not be stored, but an officer investigating a complaint might look at one of those, not that we stored that. That was a major change in the document, but I will bring it up to date, since that document was filed in 1981. I will give you any changes we have in our manner and method of storing or the reasons for storing.

Mr. Renwick: I assume we will have ample opportunity to deal with that kind of question when that bill is called for second reading. I would assume it is going to be referred out. God knows which committee will get it, but perhaps that is a more appropriate specific forum to deal with that, with the banks of information.

12:30 p.m.

I still have very serious reservations on the 50,000 names in the one and the 17,000 in the other, as just two of the examples I gave. I am always curious, but I do not know whether my name is in one of the Solicitor General's banks of information. I will be very interested in the first instance, when I write to you to ask you whether my name appears in any of the 25 banks of information you maintain, to see what answer you give me. Then, of course, I will be delighted with the second response that, yes, my name is there. Then when I ask you why, in God's name, it is, and may I see it, I will be interested in that response as well.

Mr. Cureatz: We all would be.

Hon. G. W. Taylor: I will wait patiently for your initial letter.

Mr. Renwick: You will get it.
Mr. Chairman: It is being typed.

Mr. Renwick: As the fellow said, just asking the question may lead them to open a file on you.

Hon. G. W. Taylor: I remember being on the select committee on the Ombudsman. My comment was that it increased the statistics. The minute you called in, that made another call-in. They had numerous calls that could have been wrong numbers, but that meant a call-in to the office.

Mr. Breithaupt: It will still have to be answered.

Hon. G. W. Taylor: It would have to be answered, but naturally when you are asking for increased funds, you can have any numbers of calls to justify it.

Mr. Renwick: I should give the correct attribution to that remark. It was my friend Mr. Breithaupt who made that comment.

There are very serious questions involved in that, but I do think we will now have an appropriate forum. I do not know whether the standing committee on administration of justice is the appropriate committee that will hear that or not.

Hon. G. W. Taylor: I do not know which one will either.

Mr. Cureatz: You would think it would be.

Mr. Renwick: You would assume it would be, more than the standing committee on resources development.

Hon. G. W. Taylor: You might want to know how many trees we are planting, one or two.

Anyway, I guess we will get that a little later and then I can get the detail. Mr. Spensieri has also put in a similar economic detail. Yours was the budget by the Treasurer (Mr. Grossman). Your question 379 in Orders and Notices was, "What programs will be cancelled by the Treasurer's reduction in order to hold the line on direct operating expenditures?"

As I mentioned to Mr. Spensieri yesterday, those are probably very difficult for me to answer. You are talking about general capital programs. We do those over five years. We do not cancel anything. It might be the reverse—what did we not move forward on? Things are not cancelled.

Mr. Renwick: You did indicate a specific one that you are going ahead with, a new area, in your statement. I am just wondering what the choices were.

Did you have to shelve something and make a decision in favour of the development of that particular area over three or four others? I do not mean in an ideal world, but in this world, with a

few extra dollars, would you consider that there were a couple of new developments you would really feel would be important to get on with?

I do not know whether I have made myself clear or not.

Hon. G. W. Taylor: This gets into the very precise economics of the ministry. We have Scott Campbell here, the executive director of the administration division. Lorne Edwards, the director of the financial services branch, is also here. He might elaborate for you on the budgetary process and how we developed our plans. That might answer some of your questions. Although I know them, they can give them to you far more expertly than I.

Mr. Campbell: Mr. Renwick, we cannot give you a precise answer to question 379 at this time. The statement in the Treasurer's budget was a general statement. The central agencies then have to give our ministry a specific allocation.

For example, our ministry might be told, "You have to hold the line completely, with no inflation increase." On the other hand, we might get something in the order of 2.5 per cent, or whatever.

In order to be precise about the answer to your question, we have to wait until the central agencies give us our precise target. We have not received that yet.

Mr. Renwick: That is a very interesting comment, considering what the Treasurer said in the House this morning. He chastised the Leader of the Opposition (Mr. Peterson) for not attending estimates so that he could find out what this was about. It looks as though we are in a bit of a circuit.

I am not being critical. At some point it will be possible, will it?

Mr. Campbell: That is correct.

Mr. Renwick: I am not saying that my question is honed as clearly as it should be, but I think you understand what I am trying to do.

Mr. Campbell: The question is quite precise, but we do not have the precise figures with which to respond to you.

Hon. G. W. Taylor: And direct operating expenses.

Mr. Renwick: Will you have that soon, or is it just out there?

Mr. Campbell: Yes, is the answer to that question.

Hon. G. W. Taylor: I was going to give you an example of direct operating expenses, too. The different sections of the ministry put together

a lot of information and they rate them on their priorities. Then, usually, you match those up to the potential dollars you will have for a year.

The lists, particularly in a ministry of this nature, are quite enormous, detailing whether you will get such things as the two VCR units this year, or the camera. This becomes a very extensive process that the ministry personnel go through, coming up to the stages of the final estimates and budgetary process. It becomes enormous.

Mr. Campbell: If I might elaborate on that, minister: the estimates preparation process we have within the ministry is divided into four discrete areas. The first area is what we call the current level of service. What would it cost if we just did next year what we are doing this year, in terms of inflation, and so on?

The second portion of that process is what we call long-range planning. What are new things we would like to do if, in fact, we had the additional money to do them?

A third area is what we are calling, at this point, potential pressure points—areas about which it is dictated that we must do something. An example of that in the Ontario Provincial Police is that a new road has been opened up in the north that was not there last year or the year before. That road has to be patrolled by the OPP. Can we do it with existing resources, or do we need new resources?

The fourth part of the process is what we call contingency plans. That is, if we had to cut by X per cent, where would we make that cut? What are the areas in which we can "do without," where the impact is least?

We put all those four together and then bring that up to our senior management committee. That is where we start making the tradeoffs between each of those various sections.

I do not know whether that helps in terms of-

Mr. Renwick: No, I do appreciate that. That is extremely helpful.

Hon. G. W. Taylor: Enormous books of paper.

Mr. Campbell: That is right.

Mr. Renwick: Perhaps I could ask the specific question about the decrease of \$2,630,900 in the employee benefits between last year's estimates, as printed, and this year's estimates. The total was \$31,763,900 last year, and this year it is \$29,133,000. I am just curious about that.

Mr. Campbell: Perhaps Mr. Lorne Edwards might answer that question. He is the director of

the financial services branch, and has a very detailed knowledge of that particular issue.

Mr. Edwards: To quote: "The employee benefits account relates to various benefits, one of those being the public service superannuation fund. That provides for retirement, disability and survivor income for employees who are entitled to receive benefits under the plan.

"The public service superannuation fund and Canada Pension Plans are integrated plans. The combined contributions total six per cent of each employee's pensionable earnings. In addition to that, there is a contribution of one per cent of pensionable earnings to the superannuation adjustment fund to allow for annual adjustment of retirement and disability benefits paid in relation to consumer price index increases.

12:40 p.m.

"Under the Ontario Pension Benefits Act, the employer is required to retire the unfunded liability of a pension plan over a period of 15 years. The liability is established as a result of a required actuarial evaluation every three years.

The most recent evaluation showed a reduction in liability largely as a result of increased interest credits that were earned on the fund. The reduction in the cost of the 1983-84 budgeted unfunded liability contributions, for our ministry, was \$2.32 million. That amount was minuted by Management Board during 1983-84 and was carried forward to our estimates in 1984-85.

"Originally, the percentage was 18.25 per cent of our classified salaries. That has been reduced to 15.89 per cent, so that basically accounts for that reduction."

Mr. Renwick: I think I understand that, but I will read it when I see it in print, and if I do not then I will come back to you. I do appreciate the fact that it is not an easy problem, but I did want the record to show that—

Hon. G. W. Taylor: Mr. Renwick, might I, while the chairman is here—I am watching the clock somewhat, but Mr. Breithaupt had some questions he wanted to raise in regard to Fergus. I see the clock is running and, subject to the chairman, I do not know whether you wanted to raise that at this point. I will come back to these; that is agreeable with me.

Mr. Chairman: I am at the disposal of the committee. If there are no objections, Mr. Breithaupt, maybe you could—

Mr. Breithaupt: Thank you. I appreciate the Solicitor General's giving me the opportunity to

raise these items now because I would like to deal with this Fergus situation at some length.

Yesterday, I advised the Solicitor General that I would be raising this matter in estimates because I am concerned about the sequence of events that has taken place and the manner in which this has been dealt with, not only by the Ontario Police Commission but also by the Ontario Provincial Police.

Members of the committee will recall that, on November 22, 1983, I raised in the House questions with respect to the events in Fergus that occurred in the early morning of June 6, 1983. These are recorded at page 3239 in Hansard. I will not repeat in detail what happened, other than to inform the members of the committee who may not have been present when I raised the matter that this event was the result of a police chase.

In addition, as a result of the apprehension of a vehicle-occupied by three youths from Fergus, no one of whom would admit to being the driver of the vehicle-the allegation is that one of the lads was pulled from the car by the police constable, who drew his gun, pointed it at the youth's head and threatened to blow his head off if he did not admit to having driven the vehicle.

There are three sworn statements testifying to the officer's conduct, and the youths in question were subsequently charged with various offences.

When the Solicitor General was made aware of this incident—he may have heard of it before I raised it in the House—he undertook, through my question, to review the matter further, particularly including the report of the police commission on September 20, as part of their general inspection report of the Fergus police force. This only parenthetically dealt with the incident under the heading of general comments and stated, "No criticism can be levelled at the investigation conducted."

To my knowledge there was no reference there to the fact that the officer in question apparently had drawn and pointed his weapon, and there was no comment with respect to the particular background of the police officer, who had an earlier difficulty with respect to conviction under the Police Act.

The matters were raised, and the various charges against two of the accused were withdrawn for the promise that no civil or criminal proceedings would be launched against either the officer in question or the police chief. The third lad pleaded guilty to impaired driving and disobeying an officer.

I raise these matters because I felt that the deal that had apparently been made was, to my mind, an obstruction of justice in that some serious events had occurred and did not appear to be properly dealt with concerning the civil rights of the three youths who were involved.

Then the question with respect to the activities of the crown attorneys in the area was raised by me of the Attorney General on November 28. That appears on page 3424 in Hansard for anyone who wishes to look.

On March 19, I received a letter from the Solicitor General which dealt, in some detail, with the items I have raised in my question. Unfortunately, that letter, I felt, raised more contradictions and difficulties and left much more unsaid that, in fact, it should have disclosed.

The Solicitor General first commented that, and I quote: "The Ontario Police Commission has recently completed a thorough investigation of the matter and reported in detail to my deputy minister. I am now in a position to respond to your inquiries."

He then dealt with the circumstances as he had been informed of them, and reminded me in the letter that the testimony of the three young persons is consistent to the effect that the officer drew his weapon, pointed it at one person and threatened him.

On the other hand, it was the officer's contention that he drew his weapon in order to defend himself against three who had "set upon him." The officer stated that he was forced to withdraw from the scene and, after obtaining further police assistance, effected the arrest of the three.

There were criminal charges laid. The chief of police sought the advice of the local crown attorney and eventually no charges were preferred

The Solicitor General then goes on to discuss my allegations with respect to the so-called deal that was struck with respect to the withdrawal of charges and sets out, "I share your concern that the police must exercise extreme caution in this area to ensure that improper discussions with respect to the withdrawal of charges do not take place, and the Ontario Police Commission has emphasized this concern to the chief of the Fergus police force."

He then goes on to review the various allegations with respect to the use of the gun, the investigation of the incident and the involvement of the Ontario Police Commission.

His letter comments, and I quote: "The Ontario Police Commission has decided, and I concur in its decision, that a full inquiry utilizing all the procedures available under the Police Act would serve no useful purpose. Their investigation has been a most thorough one, and I am satisfied that no matters of significance have been overlooked or would come to light as a result of such an inquiry."

As I said, I felt that the letter-from the information we had further received, and particularly from Mr. Doug Clark, the reporter from the Fergus-Elora News-Express, who happens to be with us this morning-set out a variety of matters that had simply not been addressed.

I understood that Mr. Clark, in a discussion with the minister, raised a variety of these points. I followed through with a further letter setting out my concern as to matters that had not been, in my

opinion, thoroughly dealt with.

The first-and, I thought, obvious-question that needed to be asked was why, in the first place, the Ontario Police Commission was asked to investigate the matter for a second time, when it was, in my view, their entirely inadequate review of the incident in their annual inspection report which should have raised some suspicions.

12:50 p.m.

I pointed out in my question of November 22 that no mention was made of the drawing and dangerous pointing of the gun, nor of the fact that the officer in question was convicted under the Police Act only months prior. The police commission did not interview anyone in the vicinity of the incident; neither, for that matter, did the Fergus police department. Indeed, the police commission did not even interview the youths in question or their lawyer.

The officer's testimony to the police commission is entirely inconsistent with the signed statements of the three youths. It is important to remember that the statements were voluntarily given to the chief and the justice of the peace confirmed the consistency of the stories' contents. The youths voluntarily submitted to polygraph testing conducted by Waterloo regional police and the results of those tests, as I understand them, was that they were not inconsistent with telling the truth, as those tests are so described.

The justice of the peace who originally heard the complaints of the youths has said that she had no reason not to believe the youths' story. She did believe them. The Solicitor General in his letter to me stated that the officer drew his gun in order to defend himself against three who set upon him. Of course, there is patently no evidence for this whatsoever. No one at any time suggested that there had been a scuffle. The officer himself exhibited no alarm or reason for panic after the three left the scene. In fact, he sent no radio signal to the Fergus backup or to the Ontario Provincial Police.

I might add that the incident was so unnoticed at the time by the OPP that the OPP constable who did eventually respond first took the time to finish his meal and then stopped to fuel up his cruiser. It hardly is consistent with someone being set upon and sending out as a result comments and alarms with respect to the activities of these three youths in the town of Fergus.

I do not think the Ontario Police Commission can be satisfied with this kind of review of this incident. The Solicitor General's letter alluded to the involvement of the crown attorney, advising that no criminal charges be laid against the officer. I have written to the Attorney General, who has considered the matter further and has replied to me. Indeed, I sent a copy of my further letter of March 30, which I will go into, to the Attorney General as well.

The chronology of the striking of the deal which appears in the letter is completely reversed. The promise by the youths neither to lay charges nor to commence civil proceedings against the constable and the police department was, as I understand it, in response to the deal offered by the police chief and accepted by their lawyer. The police chief himself has confirmed this chronology of events.

Why was the chief put into the situation of having to conduct the investigation initially? The OPP state that common practice in the province is to reserve the role of judge for the chief after the initial investigation is conducted by an independent officer, usually a staff sergeant or even the Ontario Provincial Police themselves.

The conclusions of this so-called police commission investigation call for the observation and documentation of future activities of the officer in question. Why is this? Is this not contradictory to the conclusion that there was no wrongdoing on his part? Similarly, why must the situation in Fergus now be monitored if there was nothing wrong with the way the police behaved in this incident?

I wrote to the Solicitor General on March 30, setting out seven questions, seven matters which

I thought should be more thoroughly drawn to his attention. He replied in a letter of May 11, which answered to some extent a variety of the points which I had raised.

I asked about the interview of anyone in the vicinity of the incident or the interview of the youths in question or their lawyers. The reply which I received was that the police commission had in its possession all of the statements made on various occasions, together with the correspondence.

I would have thought the police commission would have wanted to interview the youths face to face, rather than relying on statements collected by others, so they could flesh out any areas that might need clarification and, indeed, so they could satisfy themselves as to the impression of credibility of these witnesses. Surely, this matter comes down very strongly to a matter of credibility.

The next three points I raised were with respect to the officer's testimony to the police commission which, of course, is entirely inconsistent with the statements of the three youths, statements that I have referred to earlier as having been given voluntarily, and confirmed in their contents by the local justice of the peace.

The minister responds that it is simply a matter of credibility. He says, "The evidence in support of the constable's version of the events is that of the constable himself." Well, that certainly is the case. If the constable was acting in self-defence, which is his claim, then the circumstantial situations that I have discussed, and which I believe are rather incriminating, have been completely ignored.

If he was in a threatened situation and felt he had to draw his revolver, why was there no suggestion later made of any scuffle? Why did the officer not exhibit any panic in the sense that the calls placed for police backup did not indicate any urgency?

Indeed, the response by the OPP constable who appeared later was somewhat leisurely, in a routine kind of circumstance. If the officer felt threatened, why did he not sound the alarm and get these threatening youths apprehended as soon as possible? Indeed, in doing anything less, one would presume, he would be somewhat derelict in his own duty.

So, when you go to the credibility issue, the Solicitor General, again, does not even acknowledge the fact that the youth had submitted to-indeed, insisted on-a polygraph test. It would be interesting to have the results of those tests. The justice of the peace, in an on-the-

record interview with Mr. Clark, the reporter to whom I have referred, indicated that she believed the youths who were involved.

In the latter two points, with respect to the chronology, the Solicitor General simply does not accept the sequence as I have laid it out. That may never be entirely clear until some sort of appropriate public inquiry is held into this matter.

The police commission has called for the observation and documentation of the future activities of the officer in question. That seems somewhat contradictory to the conclusion that there was no wrongdoing on his part.

The Solicitor General, in his reply, says, "The Ontario Police Commission decided, based on its investigation, that there was no point in pursuing a further inquiry based on the evidence that could reasonably be expected to be heard."

I do not share that view. I do not think that the response that has been given with respect to this matter has reflected very favourably on the operations of the ministry.

The initial reply that I received, after information was received by the Solicitor General in his letter of March 19, was, to say the least, rather full of holes. It was necessary for the Solicitor General, in response to the comments in my letter of March 30, and after his own discussion with Doug Clark, to apparently go back and have it worked through again, because the answers that were given were incomplete.

The approach that has been taken has been, in my opinion, somewhat sloppy. It really is not, in my view, a very good reflection on the ministry in the way that this matter has been handled.

The answers that have now come forward, in the Solicitor General's letter of May 11, still raise a number of serious questions. I want the minister to know that it has troubled me somewhat to see the manner in which this incident has been dealt with.

The initial investigation, the activities of the police commission in its review, and, indeed, the holes in the story that have then had to be filled by a further lengthy letter, show that there are a number of questions that need to be reconsidered.

I would appreciate comments, now that we have both the chairman of the Ontario Police Commission and the commissioner of the OPP present to hear what I have had to say, to consider what points have been raised. I would like to know just what you intend to do about it.

I do not think that the matter has been thoroughly handled. I think that within the

community of Fergus there are concerns that still exist and uncertainties as to just what did occur that evening, how it was handled and the response of the variety of justice officials, ranging from the constable who was involved to the officers of the Attorney General who were quoted, I might add, in an article:

"Crown, OPC Official Amazed At Deal.

"Guelph crown attorney Owen Haw and Stan Raike, chief of the inspectorate branch of the Ontario Police Commission, say they are amazed by Fergus police chief Bernard Burns' actions in the aftermath of the June 5 high-speed chase.

"Both were incredulous when advised of the details of a deal struck between Chief Burns and defence lawyer Bill Corby whereby criminal charges were withdrawn against Mr. Corby's clients who promised to take no civil or legal action against either the constable who charged

them at the conclusion of the chase or the Fergus police department."

If the contents of that article, which appeared in the Fergus-Elora News Express on November 9, are true, then it does not seem as though this matter has been handled very well and I would appreciate the comments that the Solicitor General and his officials have to make.

Mr. Chairman: Excuse me, Mr. Breithaupt, I am afraid we will have to wait until Wednesday morning for their comments. We have come to the end of our time and we will have to wait until next Wednesday morning.

Mr. Breithaupt: Thank you very much, Mr. Chairman, I will look forward to that.

Mr. Chairman: The meeting is adjourned until 10 o'clock next Wednesday morning.

The committee adjourned at 1:01 p.m.

CONTENTS

Friday, May 25, 1984

Adjournment:	J-5	5	18	3
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SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L) Cureatz, S. L., (Durham East PC) Kolyn, A., Chairman (Lakeshore PC) Mitchell, R. C. (Carleton PC) Renwick, J. A. (Riverdale NDP) Spensieri, M. A. (Yorkview L)

Taylor, Hon. G. W., Solicitor General (Simcoe Centre PC)

From the Ministry of the Solicitor General:

Campbell, D. S., Executive Director, Administration Division Edwards, L. H., Director, Financial Services Branch, Administration Division McLeod, R. M., Deputy Solicitor General



Poble inter





Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General

Fourth Session, 32nd Parliament Wednesday, May 30, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, May 30, 1984

The committee met at 10:07 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (concluded)

Mr. Chairman: I see a quorum. I remind the members we are resuming the estimates of the Ministry of the Solicitor General. We have exactly two hours and 52 minutes to the conclusion of the estimates. Before I ask the minister for his reply, Mr. Breithaupt had a few more questions.

Mr. Breithaupt: Mr. Chairman, it might speed up matters if I placed on the record of the committee a number of questions that may be of use and interest to the officials of the ministry as they consider further the situation in Fergus, of which I have been speaking.

First, I am interested to know why the police commission did not interview the justice of the peace, the suspects involved or their lawyers, or the reporters who have commented on this issue. I wonder whether they interviewed the Ontario Provincial Police backup or even the operator of the Waterloo regional police polygraph, and why no one has ever talked to the constable who was assaulted by Constable O'Connor and who later resigned from the force.

Second, I wonder why O'Connor did not call his partner for help. One wonders whether it is because the partner might have preferred not to help him. Was that partner interviewed?

Third, what was the sergeant's role in this matter? Was he interviewed? Apparently he attended the office that night and was certainly seen driving by the scene the next day by area residents, yet he never stopped to ask them what they had seen or heard. One wonders what he was doing there.

Further, why was he not asked to investigate the allegations and let Chief Burns rule on them? Was he asked and refused to do so, or did the chief not ask him because he felt the job would not be thoroughly and correctly done?

Who exactly did the Ontario Police Commission interview, and why did it apparently interview some of the principals and not others? Surely, statements prepared for the defence need not be identical with those that would be prepared for the prosecution of certain charges. I am wondering who was, in fact, interviewed.

My fifth question relates to the reference that the police commission said it had obtained all the evidence it would have needed which would have been applicable had prosecution proceeded. I wonder against whom that prosecution would have been. Was it Constable O'Connor, or was it the three youths involved to which that reference is made with respect to all the necessary information being available?

My sixth question deals with the area in which all parties are agreed, and that is that the three young people made one statement to Chief Burns and then requested a polygraph. I am wondering how many statements were attempted by Constable O'Connor and whether anyone helped him in their preparation. I also wonder why the question has not been asked as to whether or not he demanded a polygraph to prove he was telling the truth.

The seventh question is whether other Fergus constables were interviewed. Indeed, were they asked why no one would apparently serve with Constable O'Connor on the Fergus Police Association?

Question eight deals with Constable O'Connor's defence. I am wondering whether that is now supported by statements made by the Ontario Provincial Police backup constable. In this instance there was no sign of a struggle and the only mud that appeared was on the cuffs of his trousers as a result of the incident which occurred on a country road after some rain.

In question nine I am wondering what makes Constable O'Connor's credibility any better than that of the three youths who were involved.

Question 10: Has anyone checked his background in either Scotland or in Fergus? I am wondering what his qualifications are with respect to police activities and what his current situation is.

Question 11: Has anyone on the council, or indeed on any of the past town councils who hired various members of the Fergus police department, been interviewed?

Question 12: How did the police commission determine and dispute the chronology of events if they did not talk to all the parties? Why has everyone confirmed the version which apparently has been advanced by me, in this committee

and otherwise? Is this, in fact, the correct chronology?

Question 13 deals with the Attorney General's investigation of the crown attorney's conduct. I am wondering whether the Ontario Police Commission investigators involved themselves with those persons and who was interviewed.

I am wondering if the judge, who issued the apparent gag order on the O'Connor incident and refused to inform anyone on where these matters were going to be heard, has been asked why he ordered the court office not to give out information or even to confirm it was on the court docket.

If, as the judge later said, it was a communications breakdown and the court workers misunderstood his directions, what has been done to assure there is no recurrence of this serious breach of policy?

I am wondering why the defence lawyer, Bill Corby, and Chief Burns both confirm they did the kids a favour by not letting them appear before that judge.

I wonder why O'Connor was not charged with dereliction of duty as apparently he fled the scene and left the public unprotected.

I would like to have further investigation as to why Fergus reeve Jim Gibbons says he has been pressured by the Ontario Police Commission to charge O'Connor. He apparently agreed to do this but demanded the recommendation be made in writing. All he received in writing was the recommendation that nothing be done except to watch the constable in the department.

Further, why was the initial inspection report authored by OPC member Jim Jolly never clarified? I am wondering why the police commission attempted to involve the OPP in the matter, because of course Jolly was a member of that force but was seconded to the police commission.

Apparently Chief Burns has stated that he will release statements and documentation only to subpoena of a public inquiry. This appears to be an interesting statement and one wonders why his approach is that way and what, in fact, an inquiry will develop.

Indeed, one also wonders why the reports that have been prepared apparently cannot be disclosed publicly because of certain confidences. One wonders what those confidences are and why there is an apparent rejection of any view that public disclosure would be useful.

Those are some of the questions that I thought I would put on the record as well, because they may be of help as the Ontario Police Commission and the Solicitor General (Mr. G. W. Taylor)

consider this matter further. With those comments, I look forward to the replies that may be available today or later as a result of the points I have raised.

Mr. Chairman: Before I turn to the Solicitor General, the clerk has a statement by the Solicitor General as well as his deputy. Would you please distribute that?

Hon. G. W. Taylor: I thought you were going to move on.

Mr. Chairman: I am going to move on. I thought we would have the reply and move on.

Hon. G. W. Taylor: Mr. Renwick asked you-

Mr. Chairman: I thought you would make the reply to Mr. Breithaupt and then we would move on to the concerns Mr. Renwick had.

Hon. G. W. Taylor: I was going to make a reply to Mr. Breithaupt, but he has asked so many questions today that I do not have answers or comments on most of them. The questions are very penetrating. Some of them are editorial. I am sure he is not doing editorial writing, but the manner of asking why often does not lead to anything more than speculation in a question as to whether something was done or not done.

We had intended to reply early, but you have asked so many further questions, Mr. Breithaupt, that 'I will have to ask the people who have prepared the information for me to see if they can answer them.

Mr. Breithaupt: That would be satisfactory. I realize these questions may require certain changes in and reviews of the reply. As a result, if you would prefer to reply to me by letter, setting out the variety of matters at your convenience, that would be most satisfactory.

Hon. G. W. Taylor: You have added quite a few questions since we last discussed it.

Mr. Chairman: Mr. Swart has a concern and Mr. Boudria has a concern. My concern is that we have four votes. How do you wish to divide the remaining time? Mr. Swart, would your concern come under main office?

Mr. Swart: Yes, it would.

Mr. Chairman: Mr. Boudria, is yours under main office too?

Mr. Boudria: Of course, Mr. Chairman.

Hon. G. W. Taylor: I was watching the time frame, too. We have put most of the comments under the first vote. That is all right with me as well, but I do not now have time to reply to many of the features that were set out in the initial critics' comments. I will attempt to do it under

the vote as each vote comes up, if that is satisfactory to the committee members.

Mr. Renwick: I am not particularly concerned about the extent of the formality but perhaps it will be possible, after Mr. Swart's and Mr. Boudria's concerns have been addressed, to spend a few minutes on the fire marshal and a few minutes on the coroner's office. If it turns out it cannot be done, we will just have to do it by correspondence.

Mr. Chairman: Let us proceed. Mr. Boudria, you have been after us for a while. We will start with you.

On vote 1801, ministry administration program:

Mr. Boudria: Mr. Chairman, I did not realize I was going to come on this quickly.

The annual report of the co-ordinator of French-language services of the government was distributed to the members of the Legislature yesterday. In that report I noticed that Constable Sabourin is listed as the co-ordinator of Frenchlanguage services for the Ontario Provincial Police and that another person, whose name escapes me, is listed as the co-ordinator for your ministry.

10:20 a.m.

Can you clarify that for the benefit of the committee? I am sorry that I forgot the report in my office. If we had the service of a page, I could send for it. However, I do not think that would be possible.

When we had the opening remarks of your estimates, minister, you indicated that Mr. Sabourin was a co-ordinator for not only the OPP but also the whole ministry.

On page 47 of your opening statement it says, "I would emphasize that while Constable Sabourin is a member of the OPP, he is Frenchlanguage co-ordinator for the ministry as a whole and will be dealing with all branches of the ministry." Could you clarify that for us?

Hon. G. W. Taylor: Yes. The clarification was made in the statement. The report filed yesterday, the material there, would have been a history. Mr. Sabourin's appointment is recent, having been made after the initial report which would have been used to prepare the text for that document you saw yesterday.

Mr. Boudria: But just to further clarify-

Hon. G. W. Taylor: Mr. Sabourin is the French-language co-ordinator for the entire ministry.

Mr. Boudria: To relate how that happened: Mr. Sabourin was appointed a co-ordinator for

the OPP and then subsequently did you give him a promotion?

Hon. G. W. Taylor: No.

Mr. Boudria: Well, how is that possible? Both names are in the French-language directory. If one has replaced the other, they should not both be there simultaneously.

Hon. G. W. Taylor: The directory was prepared before the appointment of Mr. Sabourin.

Mr. Boudria: How could that be? His name is in it. His name is in there. Both names are in it. The report came yesterday and you were handed a copy, just as I was.

Hon. G. W. Taylor: Pardon me. If you saw both in there, then both should not be in there. Only Mr. Sabourin.

Mr. Boudria: So all along Mr. Sabourin was appointed to perform those functions for the whole of the ministry and the other person who is listed there, whose name escapes me at the present moment–I am sure you will recall vividly who the co-ordinator of French-language services is and you will want to tell us–but that person–

Hon. G. W. Taylor: I do not, because you will quote him and he has not got that job. Then you will speak to him in French and then he really will not understand—

Mr. Boudria: So that person is no longer there.

Hon. G. W. Taylor: He is no longer in that position. Mr. Sabourin does it for the entire ministry.

I apologize if that document has been prepared that way. We will see if we can get an addendum for that document that is up to date.

Mr. Boudria: It is the annual report of the co-ordinator of French-language services of the province, and that was released to members yesterday morning. I was reading it yesterday and noted that you had two people in the ministry listed as having those functions, one who was supposed to be doing the job for the ministry as a whole and the other for the OPP exclusively. Then I looked over your speech and needless to say, it was not the same.

Hon. G. W. Taylor: I think you will discover that the previous person who was using that title, French-language services co-ordinator, was not doing it full time but was doing it part time.

Mr. Boudria: Yes, I believe the person is listed as being part time.

Hon. G. W. Taylor: Mr. Sabourin is the full-time co-ordinator and is reviewing the ministry's present capabilities. He has made some suggestions for how he is going to assess them and make improvements in that area.

Mr. Boudria: On August 24, 1982, I wrote a letter to you, minister, complaining about the lack of bilingual OPP personnel in my constituency. I do not know if you recall the letter. I do not want to reread it; the letter was in French, of course.

I explained to you in that letter that close to 80 per cent of the population of my riding was francophone. As you now know, having met some of my constituents, some of them are unilingual francophones. As a matter of fact, you awarded one of them with the fire bravery medal last year and the gentleman could not speak a word of English. I am sure that was probably the first time you met a unilingual francophone from Ontario.

Hon. G. W. Taylor: No.

Mr. Boudria: There are thousands more in my constituency, as you will know. I am sure the member for Carleton East (Mr. MacQuarrie) who is sitting right across from us, knows this as well.

In recent times we have been seeing a strange phenomenon going on in the OPP forces in my constituency whereby the bilingual personnel were being removed from us and given over to other areas. Needless to say, the population of my area, which was already dissatisfied with what we had, did not want to lose what little we had.

It was a strange coincidence that a few months prior to the Ontario Provincial Police officers being transferred to northern Ontario, which was occurring at that time, we had had questions in the Legislature from members from northern Ontario commenting that they were short of bilingual OPP officers. If my memory serves me right, the member for Algoma (Mr. Wildman) raised that concern.

I found it strange to see some of our officers leaving for the north not long afterwards, which led me to the conclusion that if there was a shortage of bilingual OPP officers in the north, the solution was simple—they were taken from Prescott-Russell and sent there.

I sympathize very much with the needs of the riding of Algoma. I know the member is a fine fellow and I am sure the people there are fine people. Having travelled north and having met francophones there, I am sure they need bilingual OPP officers. I see the member for Parry Sound

(Mr. Eves) in front of me here. He also has quite a few francophones in his constituency. I am sure he knows how important it is to have competent personnel to serve the people.

On that date I sent the minister a letter with the following items listed in it. At one point in Rockland we had three corporals and a sergeant who, if my memory serves me right, were all bilingual. Perhaps one of them was not. Anyway, pretty well everyone in management positions had a bilingual capacity at that time.

On the date I wrote the letter we were left in a position where only one of the four management people could even understand the French language in a community that is 80 per cent French. In this case, I am talking about the OPP detachment at Rockland. That was the letter of August 24.

I told you in the letter I found it passing strange that it was so difficult to hire bilingual OPP officers, given the vast resources of your government and the fact that the government could put all kinds of "Preserve it, conserve it" advertisements and, strange thing, advertisements telling us about all the French-language services we have. It is a nice jingle.

Mr. Chairman: How do you say "Preserve it, conserve it" in French?

Mr. Boudria: I do not think I have ever heard it in French.

Mr. Chairman: Give me a translation.

Mr. Boudria: In the advertisements we hear the French-language program is known as "C'est facile." Therefore, we hear the "C'est facile" jingle which means "It is easy." In other words, it is easy to get French-language services.

We hear them on television, along with the 1-800 number you are supposed to phone. Everybody will give you everything you ever wanted to know about anything in the French language. It does not work that way, but that is the way it is purported to work according to the television and radio advertisements.

Mr. Cureatz: Does it work better than that? Is that what you are saying?

Mr. Boudria: Oh, of course. Sometimes it works; sometimes it does not.

However, that is not the point. We are talking here about something far more important than just any other service. We are talking about what many times are life-saving services. We are talking about police services. It is a very important and good service provided by the Ontario Provincial Police.

I mentioned that I found it strange that the town of Hawkesbury, with only 10,000 people and so few resources, could find all the bilingual officers it needed. Its whole staff, without

exception, is bilingual.

Not far from where the member for Carleton East lives is the city of Vanier, with a little over 20,000 people. It has a fully bilingual complement of police officers. That is unusual. They have far less money to spend on advertisements to recruit personnel than this government does, yet somehow they find them anyway.

10:30 a.m.

On September 30, 1982, the minister wrote back to me and stated he had received my letter of August 24—which, after six weeks, was nice to know. He disagreed with me that there was a shortage of bilingual OPP officers in my area and did not see that any measures were necessary to correct this particular lack, because there was nothing wrong.

According to the Solicitor General's letter, it was perfectly normal for francophones to be spoken to by English-speaking police officers in English in the middle of a serious difficulty. There was nothing wrong with that, according to

the letter you sent me.

You did indicate to me that, yes, it was true that a corporal had been transferred to Sturgeon Falls and that he had been replaced by another officer who was not bilingual. However, the next one to be replaced would be replaced by a bilingual officer.

You then stated to me that 37 out of 58 police officers in Prescott-Russell were bilingual and therefore nothing was wrong. Of course, you did not say that 21 were not bilingual, which is really the question; it is not whether 37 were, there are

21 who are not.

I find it absolutely unusual that I have never yet met a unilingual francophone OPP officer anywhere in Ontario. I have never driven on a highway near Peterborough, near Lindsay, near Windsor, and met a unilingual francophone OPP officer.

Do you not find that strange, minister? If it is all right for francophones to be served by unilingual anglophone police officers, why is not the reverse equally logical? It seems to me that one is just as unreasonable as the other and, if unreasonable is the order of the day, then maybe it should be done on both sides.

I want to read to you part of the report of the standing committee on social development, First Report on Family Violence: Wife Battering. On page 5 it says: "Unilingual francophone victims

are frequently confronted with linguistic barriers when seeking assistance. These barriers were described to the committee by francophone witnesses from northern and eastern Ontario."

It goes on to describe the lack of social workers and all kinds of other things and says, "We heard evidence that in Prescott-Russell, where 80 per cent of the residents are francophone, there are police officers who only speak English and this is identified as being a major problem in dealing with family violence."

How does one have a unlingual anglophone police officer mediate or try to assist in a family dispute when two people are going at each other in French? How does one do that?

Maybe some of your personnel can tell us this morning the instant recipe to solve a family quarrel when you do not understand what they are telling each other and when they do not understand the police officer who is trying to talk to them. How does one do that?

You will recall that we just spoke about the letter of September 30, 1982. This report on wife battering was tabled in the Legislature in November 1982. I guess, once the report was tabled, the minister decided to write to me again, and he wrote as follows, "As I have not had the opportunity to respond to the question that you raised in the Legislature, I am writing this brief review of our OPP's current position on recruiting bilingual officers."

Of course, you had replied to me before. You probably just did not recall, but you had written to me explaining this. You wrote to me again saying that you had not and you were going to

further clarify your position on this.

What you did indicate in this is that, of course, there are areas in this province which the government has decided were going to be the French-language-serviced areas, the bilingual areas of the province. The report of the co-ordinator of French-language services listed those yesterday: the Niagara Peninsula is one of them; Prescott-Russell is another; the regional municipality of Ottawa-Carleton is another; the northeast, and so forth.

That is fine, but I would really like to know from the minister this morning what he is going to do to assure us that over the long term there will be a reasonable complement of bilingual OPP officers. Where 80 per cent of the population is francophone, I would suggest "reasonable" means practically every one of them. Of course, if we are dealing with the Niagara Peninsula where it is 10 per cent, "reasonable" may not mean 100 per cent of them.

In the area I represent, and in northeastern Ontario, I do not think it is reasonable to have police officers who do not understand the clientele they are serving. It is not reasonable to expect that in 1984 in Ontario in those areas that have been designated.

In order to correct the problem he now has, I had suggested to the minister he should have a hiring policy whereby they would hire bilingual personnel in those designated areas to add to what there is now. He told me he could not do that because that would be giving preferential treatment to bilingual candidates as opposed to unilingual ones and therefore would be discriminatory towards the ones who are not bilingual.

The logic of that really escapes me and let me tell the minister why.

If, for instance, for a particular function he requires someone with a university degree, someone with a particular knowledge that someone else does not have, he does not hesitate to hire such people, based on the qualifications they have. If, for serving the people of my riding, the minister requires a qualification which is known as bilingualism, why is it discriminatory against those who do not have that particular qualification? If the minister needs people with a specific qualification, he hires the people who have the qualification he needs.

Mr. Mitchell: May I ask a question of the honourable member? Quite honestly, I share his concerns that there should be adequate personnel in those areas that are identified. I do not have any problem with that, except I think that issue was raised some time ago. I stand to be correct, but I thought one of the municipalities concerned said it was its opinion that those conditions were being met.

Mr. Boudria: It is?

Mr. Mitchell: Let me read the letters that were sent.

Mr. Chairman: Excuse me, Mr. Mitchell and Mr. Boudria, time is marching on and I would like the minister to make a reply to you. Mr. Swart has been very patient.

Mr. Boudria: So have I. I have been here since we started these estimates a couple of weeks ago. I will just go to one more little paragraph and then I would really invite the minister to outline for us what I hope will be a plan to improve the services.

Again, I am not suggesting he fire everyone who is not bilingual at the Rockland or Hawkesbury or Casselman detachments, nothing like that. The people of Prescott-Russell are reason-

able, but it is very annoying to see that when unilingual personnel are transferred, they are replaced by more unilingual personnel. If that was not frustrating, imagine how it is when they take away some of our bilingual people and replace them with unilingual ones. The combination of those really gets upsetting.

I must say that since I have started to raise this with the minister, he has improved some aspects. For instance, we have Sergeant Gosselin, who is a bilingual fellow, as the detachment commander in Rockland now. He was someplace around Toronto prior to coming to our area.

In that type of thing there have been a few improvements, but it is still not the policy that they are going to hire a bilingual officer when a vacancy occurs in my riding. The minister has never stated that as policy up to now.

10:40 a.m.

I just want to read the following paragraph in the minister's letter of January 28: "You made a particular point of the need for the OPP to place a local advertisement to attract French-speaking recruits. However, as the force has already on hand a huge backlog of applications, further advertising at this time would not be realistic. Indeed, such an invitation would foster disappointment amongst the people responding to it."

In other words, we are going to get the unilingual guys upset if we ask for bilingual people. I really do not understand that logic.

Mr. Mitchell: I would not read the letter that way.

Mr. Boudria: I have gone on long enough. I have gone on for 20 minutes explaining all this to you and I really would appreciate learning from you—I recognize that you just recently acquired your co-ordinator and presumably, the way you described it in your opening remarks, he is doing a study right now. Perhaps that will be one of his recommendations to you.

If that is the case, maybe you can tell us you are waiting for the recommendations of your new co-ordinator. If that is not the case, maybe you can tell us that instead.

We are prepared to be patient. I think we certainly have been in the past, but we are anxiously awaiting the good news this morning.

Mr. MacQuarrie: Mr. Chairman, could I ask the member what percentage of the francophones in Prescott-Russell are unilingual?

Mr. Chairman: Out of the 80 per cent.

Mr. MacQuarrie: In Carleton East, for example, it ranges between two and three per cent.

Mr. Boudria: It is far greater than that, of course I would only be guessing, but maybe one in four or one in five have so little comprehension of the English language that they could not have a conversation. Their understanding of the English language would be about the same as your understanding of the French language.

By the way, I know some unilingual people in your riding around the Notre-Dame-des-Champs

area; quite a few of them.

Mr. MacQuarrie: It ranges, as I say, between two and three per cent; it is in that range. In the municipality with which I was connected for some years, we recognized the need to provide bilingual services, particularly in the protective services areas. In our fire department we adopted informally a policy of recruiting half anglophones and half bilingual francophones. In our police department the bilingual capacity ranged in the order of 37 to 40 per cent, depending on personnel changes from time to time.

There was a policy of having bilingual officers on duty at all times, able to respond to situations where bilingual capacity was required. I wonder, when you mention the bilingual capacity of the detachments in Prescott-Russell, whether that same sort of situation could hold true, where you

already have bilingual-

Mr. Boudria: The problem you have, the minister will know-

Mr. Chairman: Gentlemen, this is all very interesting, but I would like to hear the minister's comments, if we could move on.

Hon. G. W. Taylor: Very briefly—and I compliment the member, who has always been diligent in bringing these matters to the attention of me as minister and the ministry—we have, as we mentioned at the outset, Mr. Sabourin, who is presently doing a study. He was outlining for us his methods of study; I find them intriguing, interesting and innovative.

As in all situations, one decides to put together some statistical analyses to match the needs. His different methods of statistical analysis are intriguing and I hope will produce results that will satisfy the people who desire to be serviced in the French language in those areas.

In reply to the last paragraph you mentioned, Mr. Boudria, regarding those who would be disappointed: our recruitment procedure is very elaborate. It is not one that speaks from a point in time, in that there is a testing procedure, an interview procedure; it is not done within a space of a week.

If I were to advertise right now specifically for French-speaking people, the disappointment

would be in those who are on the waiting list. We do have a waiting list of those who have gone through their testing procedures and their interviews and are waiting until such time as we are taking in an intake class.

That period can sometimes extend from weeks, depending on when these are done. If we had immediately gone to an advertising position when we did not have the capability to take on any staff at the time, so that we had a waiting list, that could produce some disappointment if we moved ahead.

The other feature is that we cannot advertise for people for jobs in particular areas. That is fundamental to the whole working of the Ontario Provincial Police. We would like to secure people with many capabilities in languages, as well as in other areas. We make a concentrated effort to obtain people who are bilingual in the two official languages of the country.

You will find that those in the service want that feature. They are required to serve throughout the province. At a graduating class, there is some method in the madness as they introduce each officer upon graduating, sometimes with great amusement. They usually mention his home town and then his posting place.

I usually find, with a bit of amusement, that the posting person has been able to post an individual as far from his home town as is physically possible. I am sure that is not design. That is just the process. One of the features of serving in the Ontario Provincial Police is that it is a condition of employment that you acknowledge you will serve throughout Ontario.

If you were to come to any of the medal presentation ceremonies for officers who have served 20 years, you would think that some of their service histories read like bus schedules because they have served in so many places in Ontario. Having said that, we do try to align people with capabilities in both French and English with areas where they will be most useful.

The other part I wanted to mention is the promotion feature. You will discover that sometimes the ability to obtain a promotion either in a specific line of work or in the total work of the Ontario Provincial Police requires a bilingual individual to remove himself from a bilingual area. The promotion features are not in the area where his bilingual ability would be of greatest advantage in serving the people.

I recognize the domestic violence feature. I recognize your comments on that. It is one we will try to correct with Mr. Sabourin with a more

aggressive recruitment policy and a more aggressive and positive process of getting people who

speak the two languages.

It takes no great deal of debate to convince me that a domestic situation is one that probably all police officers enter into with the greatest reluctance. If you enter a situation where because of language you cannot comprehend what is taking place, you increase the difficulties of that situation. You have no great need to convince me of that in that as well as many other situations. Even in a day-to-day occurrence such as asking directions, or saying "good morning" or "hello," basic courtesy should allow the officer to reply in the language that is being used.

I see an August date on Mr. Sabourin's initial completion of the material. I hope at that time he will have some positive features and suggestions to increase our capabilities in French-language areas, particularly in services in areas such as your riding.

That is not a total answer, but that is the direction in which we are going. As a result of recognition by this government, recognition by myself and the comments you have made from time to time, we will be better able to serve those individuals.

10:50 a.m.

Mr. Boudria: I have a meeting lined up as soon as the legislative session ends two or three weeks from now or whenever it is. I have arranged to meet with Constable Sabourin. I will indicate to him the problems I see from my constituents.

I would also like him to meet with the president of l'Association canadienne-française de l'Ontario, Prescott-Russell, because the complaints I get are not numerous compared to what they get. They get far greater numbers and are aware of particular circumstances and how the situation has manifested itself.

In closing, let me say again that I am not criticizing the competence of the local police officers; they do an excellent job, both the bilingual and unilingual ones. Mind you, they are not nearly numerous enough, especially at the Rockland detachment, with all the urban guerillas around Orleans. I would be remiss if I did not say that at this point. There is not a sufficient number of them. There are less of them now, in 1984, than there were in 1973, when the population was only half of what is today.

I want to congratulate you on the choice that was made in apppointing Henry Kostuck in charge of the Long Sault district headquarters. I had the opportunity to deal with him during a

very serious crisis last year; it had to do with the chicken war. Do you remember that issue?

Henry and I spent weeks in the Ministry of Agriculture and Food building in Plantagenet, which had been taken over by the farmers. It required patience that you would not believe to deal with those matters, and Superintendent Kostuck certainly demonstrated then that he was a very capable individual.

It really pleased me to see that he had been chosen. I sent him a letter of congratulations. There is no finer person, in my view, that you could have possibly chosen to do that job. He is just a great fellow. He is also bilingual.

Hon. G. W. Taylor: I know he is bilingual. I was just going to add that he is the senior officer in that area, which is called district 11; it includes Ottawa-Carleton; Stormont, Dundas and Glengarry; and Prescott-Russell.

Mr. Boudria: And Cornwall.

Hon. G. W. Taylor: And Cornwall; but those counties make up district 11.

Mr. Chairman: Thank you, minister, and thank you, Mr. Boudria; I am glad you helped defuse the situation. I think we should now move to Mr. Swart.

Mr. Swart: Mr. Chairman, I am very interested in the matter the member for Prescott-Russell (Mr. Boudria) has been discussing, and I share his concerns because of our large French population in Welland.

There are perhaps more than 1,000 French people there who are in a practical sense almost unilingual in French. They have come up from Quebec in their middle years and many of them have not learned the language. Therefore, they are at a real disadvantage with regard to policing and many other things because they cannot be provided the services by someone who speaks only the English language. So I am very much in sympathy with the concerns the member has raised.

As the Solicitor General might expect, I would like to ask some questions about the Niagara Regional Police and the investigations there which I guess are under way. These will be part of my questions.

I would like to review briefly what has taken place during the last year or so and then pose some questions with regard to that.

The minister will know that in the spring or early summer of 1983, as well as prior to that, various allegations were made by Gerry Mac-Auliffe of the Canadian Broadcasting Corp., in

editorials in the St. Catharines Standard and by other news media.

In particular, there was an allegation by Mr. Mark DeMarco of St. Catharines about the arrogance of the chief, the brushing off of complaints by the chief and other senior officers and the refusals of the commission to even hear complaints against the police.

The reports and allegations dealt specifically with the inappropriate business dealings between the police and Mr. DeMarco. According to the crown attorney, Andrew Bell–I have a crown dope sheet dated May 3, 1983–it is common knowledge to all members of the local police that Mr. DeMarco is very active in criminally-related activities.

Apparently these revelations and allegations resulted in two investigations being commenced. I say "apparently" because these were never made public. I am only going on hearsay and perhaps the minister can confirm that there were two investigations. One investigation was by the internal Niagara Regional Police team headed by Staff Sargeant Tom Teggin and there was an investigation ordered by someone else-perhaps yourself, minister, or it could have been by the Attorney General, Lou Okmanas of the Ontario Provincial Police was appointed to conduct an investigation primarily into the relationship between Mr. DeMarco and allegedly several, guite a number, of the members of the police force, including the then deputy chief, Mr. James Gavder.

Subsequent to that, in October 1983, Mr. Peter Kormos, a lawyer in Welland, made allegations that five of his clients, by the names of Anthony Sniegocki, Bernard Peters, Hugh Stirtzinger, Kenneth Farewell and Vincent Falardeau, had been beaten up—he used that term—by police in the Niagara region. With one exception it was by members of the Niagara Regional Police force.

I wrote a letter to you asking for a thorough investigation and you announced an investigation would be conducted. To conduct the investigation, you named Detective Inspector Lou Okmanas and also Mr. Irvine Alexander. I believe Lou Okmanas was with the OPP, and Mr. Irvine Alexander was with the Ontario Police Commission.

I just want to quote one paragraph from the statement which you released on October 13, when you announced the investigation. It says, "I have asked for this investigation to be conducted because I believe the people of the Niagara region, including members of the Niagara police force, need to be assured that this matter be fully

and fairly investigated in a manner which is independent and seen to be so".

You will recall that I asked you to broaden that extensively, have a public investigation, but you refused to do that and have not done it since.

Just to carry on with this short history, there was the appointment of new members. Three of the five new members of the Niagara Regional Police force were provincial appointees, in the fall of 1983. On January 1, 1984, the new chief, James Gayder, was sworn in. He had been appointed by resolution in July of 1983 and was sworn in on the first of this year.

11 a.m.

There were, subsequent to that, newspaper articles in which it was expected that a report on the investigation would be handed down very shortly. But that has not yet materialized.

There was an article in the St. Catharines Standard, dated January 15 of this year. It stated: "Detective Inspector Louis Okmanas, who is heading the OPP investigation, said he sent his preliminary report to Hamilton-Wentworth crown attorney Dean Paquette last week for a routine review before drafting the final copy."

In the Welland Tribune of February 23, 1984, it stated: "Inspector Lou Okmanas told the Tribune he submitted a written brief on his findings to the Attorney General's office 'about three weeks ago.'" In spite of those statements, no report has yet been released by the minister or anybody else on the investigation.

In March of this year, there was a new series of revelations and allegations made by Gerry MacAuliffe of the Canadian Broadcasting Corp. Finally, there has been—and I say this very frankly—an ongoing and I believe a sincere attempt by the new commission to clean up the act.

I guess it is fair to say that more and more is coming out even in their own admissions about how messy that act had been prior to the new commission coming into force. I have here a copy of a rather large news account in the Welland Tribune, from as late as May 17, quoting a letter from a citizen in which he asks what is going to be done about the investigation and the conduct of the police force in times gone past.

He makes such comments as he was "upset." I should read it into the record. The name of the person is Wayne Bennett. He said he was upset that the new chief, James Gayder, was appointed without the job being advertised outside the force. He goes on to point out that he is not on a vendetta against the police. If the minister could

read the whole letter, he would say it was a very reasonable letter.

The article quotes commission member Al Barnes as saying, "...the current commission can't change history, referring to the acts of the previous administration." The article also quotes a letter to the commission from Nellie Keeler of Niagara-on-the-Lake, who was a highly respected alderman there for many years. "She said recent CBC Radio investigative reports about the Niagara Regional Police force 'brings to light the utter disregard for a just society by apparently numerous officials who have the trust and respect from the community to uphold the law." In her letter, she expressed her "outrage and disgust at the abuse of the taxpayers' money."

Commission member Beverley Allan said: "We are doing our best to look into the problem....We have addressed the problems and we will continue to do so. We should welcome criticisms that put us on our toes." I just wanted to put that into the record to show the new police commission recognizes the rather serious situation that existed previously and certainly the tremendous loss of confidence by the public in the Niagara Regional Police force.

I have another article here from the St. Catharines' Standard about the same thing. However, in the interest of time, I will not read it.

Pursuant to that brief history of what has been going on, I would like to ask three or four questions which the minister might like to answer. I will divide up the questions, which are on the same subject.

When is the investigation going to be completed and the findings released? Will the total report be made public? Will that be a comprehensive report, including the original investigation which was done last summer? Will it include an investigation of the recent charges by the CBC, particularly those involving the questionable financial practices of the commission?

I think it would be worth while just to read two or three of the allegations made by Gerry MacAuliffe on the CBC. The minister may want to comment on them.

I want to state immediately that, because they do not give out transcripts, we had to get these from a tape and there may be a few words missing here and there. However, I believe they are not inaccurate.

This was his third story. He said: "The secretary of the Niagara Regional Police Commission says the commissioners' expense account policy is not easy to explain. Larry Quattrini says the five police commissioners

received monthly expense allowances last year that they did not have to account for.

"CBC Radio News has learned that the department was billed as well for the commissioners' meals and other expenses. Trying to figure out how much the Niagara regional police commission spent last year on entertainment and travel is not easy. No one has ever kept track of it as a single budgetary item.

"For example, 19 senior police officers and the secretary of the police commission, Larry Quattrini, all had MasterCards with a \$1,000 spending limit, but commission secretary Larry Quattrini says he does not have a record of who had the cards, what they spent or why. He says when the bills came in each month, they were simply paid.

"The five police commissioners also received monthly expense allowances. Mr. Quattrini says he cannot explain what the allowances were supposed to cover. The chairman of the commission last year, Bev Davies, who is a Port Colborne lawyer, was given a \$5,000 tax-free allowance which he did not have to account for." I believe the other commissioners got half of that.

"Efforts to find out from him what the allowance was for did not work either. His secretary says Mr. Davies does not talk to reporters

"On examination of the commissioners' financial records by the CBC, these facts were revealed. The police commissioners frequently ate dinner at the Blue Mermaid restaurant. It is one of the most exclusive restaurants in St. Catharines. Last year's bills came to \$2,100, all provided by the taxpayers.

"On another occasion, the commission met and ate dinner at the private Port Colborne Club. Mr. Davies is a member. That cost taxpayers \$191. Mr. Quattrini, the commission's secretary, makes \$50,000 a year, plus a \$90 per month car allowance. He also charged mileage and part of his car insurance.

"Mr. Quattrini also charged the taxpayers half the annual service charge on his personal American Express charge. He says he has had to use it several times while dining with the commissioners because the bills were too high for the police department MasterCard."

Then we have story number four: "Regional finance department officials say the police commission has always functioned as an independent authority. The finance department has only served as a cheque-writing service. Officials say the department has never challenged or

questioned or criticized police department spending because it never had the mandate to do so.

"The police force is seeking an 8.3 per cent increase in its budget this year. The issue goes before regional council. Regional councillor Fred Dickson says he believes the commission will have problems getting its budget approved.

"One item not detailed in last year's budget is a secret \$17,000 fund. Quattrini says the money is used to obtain information from confidential police informants. Quattrini says two senior police department officials have exclusive signing authority on the secret bank account. He says the account has never undergone a financial audit. Mr. Quattrini cannot explain why the fund is not included in the public budget documents."

I read those remarks into the record. You probably know these statements. The allegations made by the CBC would have been reported to

you.

Incidentally, the present commissioner would like to see these allegations cleared up. Therefore, I pose those questions to the Solicitor General. Perhaps you would like to answer them at this time.

Mr. Chairman: Before he answers, I would like Mr. Swart to clarify something for me. Did you say that at St. Catharines' leading restaurant they spent \$2,100 last year, or was it \$21,000?

Mr. Swart: It was \$2,100.

Mr. Chairman: Do you find that exorbitant?

Mr. Swart: That is not the real question. The real question is whether you get an expense allowance.

Mr. Chairman: I see.

Mr. Swart: I am coming to that in a minute. If you get a flat expense allowance and then you still charge all your individual expenses—

Hon. G. W. Taylor: It is sort of like the members of the Legislature.

Mr. Boudria: Some of us have credit cards, but others do not.

11:10 a.m.

Hon. G. W. Taylor: Which, of course, is legally authorized.

Mr. Boudria: Need I remind you which is which?

Mr. Chairman: Minister, the floor is yours.

Mr. Swart: I would like you to tell me how this is legally authorized. However, I want to back to those original general questions first.

Hon. G. W. Taylor: I have no difficulty. I have heard comments, but I think we all receive

some flat expense allowance here and we also submit expense accounts.

I do not know what they do on that one. I have heard you make the comments before. I am not defending the local operation. It is a matter of their local accounting. At some point, we may have to review that if a request is made and it is of a serious nature, and also if Mr. MacAuliffe's items are serious. I suspect that some of them are just a matter-

Mr. Swart: Excuse me. You know I was quoting MacAuliffe on all of that.

Hon. G. W. Taylor: It is Mr. MacAuliffe of the Canadian Broadcasting Corp. If he were to use any amount of introspection about what he does in his job, I suspect he would find that his manner and method of submitting expense accounts and those of the CBC probably would not differ greatly from the examples you have provided here. From your interpretation of him, I guess he thinks there is something totally amiss, totally wrong and he may even consider some of it criminal in nature.

It might not be the best accounting procedure and it might not be the best bookkeeping method, particularly when dealing with public money. At this stage and to my knowledge, perhaps in what he is saying it is not criminal in any way but he would like to have them reviewed. As you have indicated, I am sure that is currently what the new members of the police commission down there are reviewing.

As on all the comments, from the Provincial Auditor or our own internal audit processes, we try to devise better methods to control or review our spending habits. In regard to the general Niagara Region Police force and the CBC report, it is particularly within the jurisdiction of the local police commission to comment on and review that, and come up with some corrective methods as to the use of local public funds.

As to the Ontario Police Commission investigation that was commenced—at least there was the statement of October of last year; the statement date, if I remember correctly, you said was October 3 or 4.

Mr. Swart: I believe it was October 13.

Hon. G. W. Taylor: As with all things, and I use this as an example, I have heard interjections in the Legislature as to how long it has taken. I want to give you some facts as to the thoroughness and the method.

To give an example, last week we had an officer sitting here available to provide information if some of the members desired information on that subject. His comment on leaving after

having sat here for the morning and not being used—and it was perfectly within our ability to have him sitting here—was: "Sorry, but I cannot come back tomorrow. I am a witness in a murder trial".

I use that as an example about comments as to how long these investigations take. The investigations are fitted into a schedule. They also have serious and ongoing duties as to which trials there happen to be. They may have great gobs or sometimes small time frames taken out of their regular jobs when they are assigned to other duties.

We do not have the total complement that would always allow us to assign people exclusively to particular tasks. Sometimes, when they are assigned exclusively, their historical or backlog of information requires them to be witnesses in other investigations that have been ongoing. I use that as a matter-of-fact example of what these people are required to do

Back to the time frame, October 13, the announcement: the investigation commenced about October 26 and the actual investigation has spanned a period of time totalling somewhere near five calendar months. They have had interviews with some 210 persons. Even if you were doing those one a day during the regular work day, that time frame would be used up in trying to see 210 persons.

If you have ever tried to see 210 persons, to use your own riding constituency office as an example, I submit that getting them all in at particular times and within their time frames is not a simple task.

One complainant alone, Mr. DeMarco, made a total of 56 allegations against the Niagara Regional Police force. So when you start seeing and talking to some of those 210 people, you are asking them about the 56 allegations Mr. DeMarco made. I am giving you figures to show how it would compound the length of time.

The investigation was completed on May 7. Since that time, the two senior OPC investigators assigned to the investigation have been completing their notes. The final report is under preparation as of this date and should be in excess of 250 pages.

That is on the OPC investigation. You mentioned Mr. Okmanas and some of the other features; they deal with another area.

Mr. Swart: Could I just interrupt to ask when you expect the report will be released?

Hon. G. W. Taylor: You asked when it would be released, to whom it would be released and how it would be released. I have not made a

determination on that yet. I have not seen the report. As I say, it is being prepared.

It goes through a typing and printing process, and then it is a matter of my reviewing the contents—and I say "reviewing the contents" because I do not know what happens to be in there at this time—and determining how the contents would affect other ongoing investigations or criminal proceedings. That would be one determination that would have to be made as to whether it would be released immediately.

You also asked how much of the report would be released and to whom. Those same features will be the determining factors as to how much of the report will be released. Maybe all of it will be released; it will depend on ongoing criminal investigations and, I believe, if my memory serves me correctly, criminal proceedings that are before the courts or have the potential of coming before the courts during that time. All of those will be put into the assessment of how much of that report will be made available and when.

I think my deputy had some comment to make; his mind triggered to some of the comments you made on the chronology of events. I do not know whether I touched on all of them. He may have some he wants to add on this matter.

Mr. McLeod: Mr. Chairman, just very briefly, I think the honourable member's questions included a specific reference to the work of Detective Inspector Okmanas of the OPP, both with respect to his initial report in the spring and summer of 1983 and with respect to the subsequent criminal investigation that he did.

I hope it will be helpful to advise you that in the spring and summer of 1983—I do not have the exact dates—when Mr. MacAuliffe's initial revelations or allegations were made involving Mr. DeMarco, it was essential from the point of view of the ministry that as a first step we would provide an appropriate public official to receive from Mr. DeMarco what those complaints were.

It was impossible to tell at that early moment whether Mr. DeMarco's complaints were really matters that ought to be the subject of a criminal investigation by the OPP or some other police force or whether they were complaints relating to the conduct of police officers in the Niagara Regional Police force short of alleged criminal conduct or, alternatively, relating to the management of the administration of the Niagara Regional Police force.

11:20 a.m.

What we did was make Detective Inspector Okmanas available to receive from Mr. DeMarco

all the information he had to bring forward. That was not really an investigation at that stage by Inspector Okmanas, but rather simply the receipt of the information.

After that information was received and reported upon to us by Inspector Okmanas, it then became necessary to determine what the next steps would be. The decision was made, essentially, that the material provided was such as to require an Ontario Police Commission investigation. The minister already has referred to the details of that, so I will not go over it. Over and above that, there were certain allegations that were investigated. You have referred to the information provided by the solicitor, Mr. Kormos.

As you are aware, Detective Inspector Okmanas was involved in investigating them and has been consulting with Mr. Paquette. My understanding is that this is very close to completion. Although, as you indicated, a preliminary report was provided, Mr. Paquette wanted the inspector to perform certain further investigations. My advice from the Ministry of the Attorney General is that this process is close to completion.

I think that covers it.

Mr. Swart: One question has not had an answer. Will these reports be comprehensive; covering, as I stated before, any questionable financial practices of the commission, the commission's action in refusing to hear and to deal with complaints, or the manner in which they dealt with complaints which were of major concerns to the community?

I sent you the editorials from the St. Catharines Standard and I am sure you aware the major concern is that the complaints were not dealt with appropriately.

As you are probably also aware, when Mr. John Levesque went to the police commission to complain, when he left the commission and stepped outside the door, the police chief took him in custody because he was \$230 behind in his alimony payments. Although he had something like \$195 on him and offered to pay that, they kept him in custody until the rest of the money was secured.

I think any lay person would suspect intimidation. Are these sorts of things going to be looked into?

Hon. G. W. Taylor: You asked us about the CBC allegations on financial practices. I have not seen the report, but they came out after we had commenced our investigation. That will not be part of our investigation.

As I said to you earlier in replying, the allegations made by Mr. MacAuliffe are those that are being corrected by the local authority and are not something we have looked at. As to the others, my deputy has some comments on the last part you raised.

Mr. McLeod: Perhaps the easiest way to describe it is that the OPC investigation, the details of which the minister has given you on the timing, size of report, witnesses interviewed and so on, in my understanding will cover everything except the March 1984 CBC allegations with respect to financial dealings, which are being investigated, as you informed, locally by the new commission itself, except for those matters covered by the criminal investigations.

Mr. Swart: I do not think I implied that there is any in-depth investigation being done by the new commission into the financial practices of the past commission, except in order to change its procedures at the present time.

For obvious reasons, it is very unlikely one commission is going to look into the practices of the previous commission. I would state again that the new commission is very anxious to operate in a very open and above-board way, but from the allegations that have been made, it seems to me there is a very real need to have these looked into by some authority.

I suggest the Ministry of the Solicitor General is the obvious authority to look back on why audits apparently were not done. That allegation was made by the CBC, as I am sure you are aware. It seems to me these have to be looked into.

In fact, when I raised this question in the House with you, perhaps about two months ago now, you gave the impression that you would be looking into those matters. You may have meant only anything that related to criminal allegations, I do not know, but certainly you left the impression you would be looking into those.

Hon. G. W. Taylor: I think I replied that I would be looking into them because I was certainly unaware of them when you raised them in the Legislature. I have since, similar to you, obtained a summary of the allegations by Mr. MacAuliffe, all of which are characteristic, complaining about the business practices of a local commission.

As I indicated to you earlier today, unless it became the subject of an allegation of criminality, neither I nor the Ontario Police Commission would normally look at those items. It is a case of how they carry on their own business and how they spend their local money, provided by the

local taxpayers, and how they account for that money. It is not something I would look at.

If they want to spend money on meals and have what may be in some people's eyes a less than precise method of accounting for the spending of that money, that is their prerogative locally.

If I left you with the impression that I was investigating that, I was just going to inquire about it because when you raised it; I had no knowledge of Mr. MacAuliffe's comments, not being a follower of Mr. MacAuliffe nor too close to the CBC.

Mr. Swart: I do not have Hansard in front of me. I do not know whether it is there or not, but that impression was left with me. Let me just follow up by asking another question.

You are saying you are not going to investigate or have an investigation under your initiative of any of those more recent allegations made by Gerry MacAuliffe of the CBC? Are you going to look, for instance, at whether it is legal for a commission to get a flat expense allowance and then charge individual expenses on top of that?

Mr. Chairman: Mr. Swart, we have spent quite a bit of time. I have another member who would like to come under main office.

Mr. Swart: I have not-

Hon. G. W. Taylor: I wish Mr. Swart would look at what he does and what I do and what every other member here does. We get a flat rate which is entitled "expenses of members" and then when we are on committees also charge expenses for meals. I find no difficulty and no difference with that. If you think I should be investigating that then you might want to investigate each and every one of us.

Mr. Swart: I think you are really evading the issue and I think you know you are. The question is the legality of it. We get expenses here in a variety of ways, all of which have been approved by the Legislature of Ontario.

Is what the police commission has done in this respect legal? I am not asking whether it is appropriate, I am asking if it is legal. Is it not worth investigating under the Police Act or any other act to see if it is legal to pay those kinds of expenses?

Hon. G. W. Taylor: Again, the local municipality can determine how they appropriate their spending habits and their accounting procedures locally. It is not for this minister or the Ontario Police Commission to say, "Here is the manner or method of auditing for your local municipality and here is the manner or method that you must use to do that.

Mr. Swart: The majority of those members were appointed by this government by order in council. Do you mean you are not interested in finding out if those expenditures they made on behalf of themselves are legal?

Hon. G. W. Taylor: Indeed, they are appointed by us but their accounting procedures for the spending of money are to the local municipalities, not to the provincial government. **11:30 a.m.**

Mr. Swart: But surely with the shadow—and that is putting it kindly—which has been cast over the top administration of the police commission during the last nine months or year and a half, does it not seem reasonable that you would want to look at some of these expenditures to see whether a proper audit has been performed and whether there is proper accountability by the commission and the senior administrative staff?

Hon. G. W. Taylor: That is being looked by the new local commission; as the persons responsible locally, they have a responsibility to see how they are spending their funds. There are some elected officials on there; they can look at how it is being spent. The local municipality can conduct an audit and the local board can set guidelines as to how it accounts for and spends its money.

Mr. Swart: Frankly, I am amazed that you do not even want to look into it and find it out, because I do not know who else will.

Hon. G. W. Taylor: We have some elected people down there who can look at it; they have a responsibility. We have the local commission, which looks at it; it has a responsibility. If someone wants to make a specific allegation of criminality against those individuals for those spending habits, the police force and this ministry will look at it. However, if you want us to review everybody's spending habits throughout the province, I suggest we will be a very busy ministry.

Mr. Swart: That is a silly statement. I am not suggesting for one moment that they should look at every expenditure. The police commission has been under a real shadow; there is no question about it. There have been editorials in the St. Catharines Standard week after week and month after month.

Mr. Chairman: Mr. Swart, the question has been answered in a variety of ways for you, and you keep coming back with the same question. You are getting the same answer.

Mr. Swart: Then let me then pursue-

Mr. Chairman: I remind you that we have been more than fair in allotting you some time. There is another member here who has some questions, and we would like to get on with the estimates.

Mr. Swart: There is one other rather important question on which I would like to have an answer from the minister.

Was the appointment of the new chief made while he was under investigation by Staff Sergeant Teggin, an internal investigation, and by Detective Inspector Lou Okmanas, for his relationship with Mr. DeMarco? I am talking now of appointment by resolution. You will recall that I raised this with you in November 1983 and asked you to look into it.

Was he being investigated for breaches of the Police Act and the ministry's code of conduct and contravention of the Criminal Code? Did Staff Sergeant Teggin report in late August or thereabouts that there was enough evidence to charge then Deputy Chief Gayder under the Criminal Code?

Did you look into this when I raised it with you last November, before he was sworn in-in fact, seven weeks before he was sworn in? If you did look into it, what did you find?

Hon. G. W. Taylor: To my knowledge at this time, there was no report such as you mentioned concerning Chief Gayder. The statement you have made today is very similar to, if not the same as, the statement you made earlier in requesting that it be reviewed. That matter is being reviewed and should be part of the final report when it is prepared by the Ontario Police Commission.

I have no answer to that specific question at this time, other than to say to wait for the general report.

Mr. Swart: I did not make a statement; I asked a question. I want to make that clear. There is a difference. There is an implication, of course, but there is a very—

Hon. G. W. Taylor: Then the facts contained in your statement are very similar to the facts contained in your previous statement.

Mr. Swart: In a previous question to you in the House, yes; I understand you looked into it after I raised the issue with you in the House on November 7.

Hon. G. W. Taylor: It will form part of the report we have already mentioned.

Mr. Swart: Did you satisfy yourself that the result was such there was no reason why he should not have been officially sworn in?

Hon. G. W. Taylor: I have not seen the report. The body continued and I did not put any blockage in the way of that local board continuing with its functions in regard to that chief. They made certain assessments in regard to appointing that individual as chief, which is their duty and obligation. If anything arises from the facts contained in your question, that will be reviewed in the report by the Ontario Police Commission.

Mr. Swart: You did not endeavour to satisfy yourself, before he was sworn in, whether there was any reason why he should not have been sworn in because of the investigation that was being done or any report of the investigation?

Mr. Chairman: Mr. Swart, I think that is the final question.

Mr. Swart: Perhaps I can get an answer.

Hon. G. W. Taylor: No, I did not do anything further. It was a local decision as to who should be the chief. The allegations or facts included in your statement are being reviewed by the Ontario Police Commission..

Mr. Swart: Mr. Chairman, I have some other questions, but at your urging and in fairness to the other members I will give up the floor.

Mr. Williams: Mr. Chairman, I presume this matter could come under the main office, given all the other matters that have been talked about under that broad umbrella, even though it is hard to visualize them in the votes. It is in that category.

I presume if I start a discussion with regard to the activities of the Ontario fire marshal, that would not be inappropriate.

Mr. Chairman: Proceed, Mr. Williams.

Mr. Williams: I noticed in the minister's opening statement that he had good news for us about the activities of the office of the fire marshal. He pointed out that the incidence of fire loss has been reduced somewhat from the norm, and he indicated the activities that are going on within the ministry further to improve fire enforcement in the province and minimize the incidence of property and human loss.

What I was particularly interested in while hearing about the advances being made in this area was their relationship to the activities of the fire marshal's office and the recommendations emanating from the report of Judge Webber that came out earlier this year.

11:40 a.m.

I want to get some clarification as to exactly where we are with regard to addressing some of the concerns raised in that report, particularly in the area of hotel fire safety. In doing so, perhaps I could go back a little in the history to be sure I am clear on what has transpired to date and the direction in which we are going.

I also will want to get some clarification on the extent of the new hotel fire safety regulations you referred to very briefly in your statement. I would like to know the nature of the upgrading and maintenance and fire procedures that have been implemented through those regulations and how you feel this has significantly improved the situation over what had been the status quo.

I guess the big change came about back in 1981. I am referring now to Judge Webber's report, the section dealing with hotel fire safety. When the responsibility for inspection of hotels was transferred from the Liquor Licence Board of Ontario to your ministry, how many personnel were involved in that transfer? What is the present total staff complement of inspectors and what programs are undertaken by the fire marshal? It is my understanding that it comes under the jurisdiction of the hotel fire safety services unit. I believe Mr. Hess is in charge of that unit.

I would be interested in knowing if those who transferred in 1981 from the Ministry of Consumer and Commercial Relations vis-à-vis the Liquor Licence Board of Ontario had any different qualifications from the people who were with your ministry or who joined your ministry in this particular area of the office of the fire marshal.

Did they have any particular area of expertise from having been involved in that process in the past that gave them any better qualifications to carry out inspections, or because there may have been a divergence there did this give rise to new programs of instruction and training being developed, as indicated in the report, by that particular unit?

If that is the case, what has been done to standardize the process and upgrade it? This probably is answered in reference to the regulation I referred to earlier, but I would like some clarification on that matter.

The other aspect of the hotel fire safety situation that gives me some concern is with regard to the note in the report that there was a difference of opinion as to whether the Ontario fire code applied to hotels. I gather the legal opinion of your ministry was that it did not, whereas other people who could be considered as experts in the field were of the opinion that it did.

If your ministry was proceeding on the basis that the code did not apply to hotels, what are the

ramifications and were they significant? I presume your ministry has moved to address that difference of legal opinion in some practical way.

Perhaps having given the basic thrust of my concern, I will get into more specific questions after I have had a response to those first general observations.

Hon. G. W. Taylor: Mr. Williams, on your general observations, your first one was about how the Webber report co-ordinates with what other items we are doing in the ministry. I cannot give you a verbal reply to that in any great detail. I ask the same questions whenever we receive such a large report as Webber's. It has numerous recommendations. The obvious question is, what are we doing on all those recommendations? Have we done something? Where are they?

I have a chart for my purposes that explains each one of the recommendations, where we are, where are going, what we might possibly do, where the fire code applies at present. At the same time that the Webber report was being tabled, we were also bringing forth the changes under the fire code that were also being implemented at that particular time.

Mr. Williams: This is part 9 you are referring to?

Hon. G. W. Taylor: Yes.

Mr. Williams: It does not refer to hotels. It refers to retrofitting other than hotels, as I understand it.

Hon. G. W. Taylor: Right, Webber was high-rise, some other buildings.

Mr. Williams: Yes, I understand.

Hon. G. W. Taylor: We are making some other changes in the fire code. I do not profess to know where all of those features all fit together. We have here the assistant deputy minister, Frank Wilson, and the Ontario fire marshal, John Bateman, who can give you a more precise analysis of where we are and where those different features fit in.

One question you did ask was about the number of inspectors. I believe 70 were transferred to the hotel fire inspecting features. With that, I will transfer you to the fire marshal and the assistant deputy minister, who might answer precisely the questions you have raised.

Mr. Bateman: Mr. Chairman, with respect to implementing Judge Webber's recommendations, quite a wide range of agencies, ministries and departments have some degree of responsibility. We have undertaken to disseminate the recommendations to these groups. A very large

area is our own responsibility, of course. One of the prime ones is the matter of high-rise regulations and retrofitting under the fire code.

We have struck a task force now. They have not yet met, but they are meeting within the next few weeks. We felt it was inappropriate to start work on technical regulations dealing with safety in high buildings while the Webber commission was still hearing evidence, prior to the report coming out. That is why it has taken us until this point to get under way on that.

Mr. Williams: Is that an in-house committee?

Mr. Bateman: No. It is a committee that represents, we think, all the public and private sectors interested in the matter of fire safety in high buildings, such as fire departments and representatives from the Housing and Urban Development Association of Canada and the Urban Development Institute.

Mr. Williams: Were these people you approached or was this done through general advertising at large to the public? Was there any invitation to the public?

Mr. Bateman: We approached them. Most of them we had been working with on the other regulations—retrofit, assembly buildings, boarding and lodging houses. We have a draft now on low-rise residential buildings that a lot of the same people have been involved with.

Mr. Williams: They are largely people who have some technical awareness and expertise?

Mr. Bateman: That is right. We have representation from the Association of Professional Engineers of Ontario and the Ontario Association of Architects.

Mr. Williams: How many approximately will be on this committee?

Mr. Bateman: About 12 or 13.

Mr. Williams: You are really just now starting to get into action?

Mr. Bateman: On the high-rise buildings. 11:50 a.m.

Mr. Williams: On the high-rise buildings, okay.

Mr. Bateman: Some of the other matters relate to funding-

Mr. Williams: Can I just come back for a moment with regard to that group? Will they also be addressing the retrofit considerations as they relate specifically to hotels?

Mr. Bateman: No, they will not.

Mr. Williams: Who is handling that aspect?

Mr. Bateman: We have recently passed an amendment to the regulations under the Hotel Fire Safety Act; that comes into force on June 1, this Friday. It has been brought in on the assumption that the fire code does not apply to hotels and that there are real benefits to developing a specific program for hotels.

That was dealt with separately, with the fire code in mind, to minimize or eliminate any conflict or differences between the fire code and the hotel legislation and between the hotel legislation and the Ontario Building Code.

Mr. Williams: Are you saying it is still the position of the ministry that the fire code does not have application to the Hotel Fire Safety Act?

Mr. Bateman: Yes. But you are quite right that there does not appear to be unanimity of opinion in the legal fraternity on that matter.

Mr. Williams: Judge Webber himself seems to come down on the side of the others who felt otherwise; that it did have application.

Mr. Bateman: That is right. I did not realize that myself until I read the report. It is something we are thinking of addressing in the next revisions to the fire code.

Mr. Williams: So you are going to adjust your thinking to reflect the views emanating from the report that the code should be redesigned or revised to address the hotel fire situation and relate it to the act, which they indicate in the report should remain as a separate piece of legislation. Is that correct?

Mr. Bateman: Yes. But I am not sure how extensive the revisions to the code would have to be. I was hoping a simple phrase of clarification, indicating the fire code did not apply to hotels, would deal with the matter.

Mr. Williams: I think that is what they were saying in the report, that because there was no specific statement that the code did not apply, therefore it had to be taken that it did apply. That is the very point Judge Webber made in the report, that until you precisely and clearly indicate in legislation that there is no application, it is assumed that it does apply.

Mr. Bateman: I want to jump back to another of your questions. I am not sure I recall them all.

Mr. Williams: Just before we leave that, what is the major consequence of taking the position that your ministry does, that the code does not apply, when others, including the Webber study group, felt that it did apply? If they are taking that interpretation, what are the consequences? If you are continuing to take the opposite position, how are you going to reconcile those differences, and

what are the real consequences to the standard of fire safety as it applies to hotels?

Are we in any way prejudicing the public's position by not recognizing that the fire code has application to the Hotel Fire Safety Act? Is there any relevance to that suggestion?

Mr. Bateman: I think not. In this latest revision to the hotel regulations, we did attempt to ensure that the standards of maintenance are the same as those contained in the present fire code. For example, I am thinking of the maintenance testing requirements for protective systems in high hotels; they are the same as are contained in the present fire code.

We have tried to ensure uniformity in the provisions concerning records of tests, the training of staff, periodical fire drills, and so on, but I guess there are some special conditions that apply to hotels and not other types of buildings. The way hotels are managed and the type of staff they have do not really apply to any other buildings. There are some differences, but with regard to the general level of safety, any conflicts occurring between the fire code as it might apply to an apartment, and the Hotel Fire Safety Act as it applies to a hotel have been worked through.

In the fire marshal's office, we enforce the Hotel Fire Safety Act. The fire code is enforced by the local fire departments. We have had to make sure the municipal fire departments are well aware of their roles with respect to hotels. We encourage them to inspect the buildings and to report their findings to us. So far as any charges are concerned, we lay the charges.

Mr. Williams: In his report, Judge Webber indicated the very reason for consolidating the two was to ensure there would be uniformity, a standard application of a quality of safety across Ontario.

Some jurisdictions—I guess one was the city of Toronto—felt it all should be put into the code. While a municipality such as the city of Toronto might have the resources to look after itself in a very adequate way, there are many smaller communities around the province which just do not have the manpower and other resources to apply the code in the same fashion. Without the provincial inspectors being in the forefront, in some of the smaller communities the safety of the public using the hotels could be put in jeopardy.

Mr. Bateman: We have left the option of whether they want to get involved in hotels up to the municipalities. We have encouraged them because we think it very important that they familiarize themselves with any building that, in

a real fire situation, they might have to respond to and deal with conditions within the building.

Some of them do have problems in dealing with the rest of the buildings which are covered by the fire code. We do what we can to help them there, short of going in and conducting the actual inspections. We produce guides, we train them, we go out to visit and talk to the fire departments. I have found that most of them are quite satisfied with the code so far.

Mr. Williams: I was asking earlier about the staff strength, bringing in the people from the board, along with the other people who already would have been with the Ontario fire marshal's office.

12 noon

Webber indicates that each inspector is responsible for about 20 to 40 hotels. I do not know whether they have to inspect that number of hotels on an annual basis and that is all they can do in a year. I do not believe that would be the case.

I just am not sure of the actual formula for personnel versus the number of hotels they are given to inspect or be responsible for, but do we have adequate personnel to inspect all the hotels and motels in Ontario within a one-year or other given period of time? What is the situation there?

Mr. Bateman: Yes, we do. We are not able to assign a quota of hotels to people. I am sure some of them have more than 40. Probably one man could be assigned throughout the year to deal with the Royal York Hotel and have enough to do without having any other hotels.

We have the staff to inspect each hotel at least once a year. We try for more than that. We originally aimed at twice a year. With the variety of follow-up inspections, special problems that were brought to our attention, court work and so on, the full, complete inspection goal fell back to once a year rather than twice a year.

However, we feel we are able to do an excellent job and we are able to concentrate on working with the hotel staff, which we were never able to do in the past. I think the Webber report indicates how important is the training of the hotel staff, as did the Inn on the Park inquest.

We are concentrating not only on ensuring that the whole physical plant complies with the regulations, but that the staff understands what the systems and bits and pieces are for, and what their purpose is.

Mr. Williams: The minister has said you brought over about 70 people from the board. What other staff did you have under your own

jurisdiction at the time you brought the two together, running to how large a staff complement now?

Mr. Bateman: We had five hotel inspectors prior to that. We were doing dry hotels. There is an apparent inequity there. I think we were doing more dry hotels than the Liquor Licence Board of Ontario was doing wet hotels with our staff of five versus something over 70 that it had. The dry hotels tended to be very small hotel-type operations and the wet hotels are the high-rises, the ones with the big problems.

Mr. Williams: You had 75 back in 1981. What are you at now?

Mr. Bateman: That is what we are at now.

Mr. Williams: You are still at the complement of 75. Mr. Philippe and Mr. Chow were quite helpful in the hearings before the Webber commission. What positions do they hold?

Mr. Bateman: Roy Philippe is chief of consulting services and Tony Chow is assistant chief. Their responsibility is the fire code.

Mr. Williams: That is their area.

Mr. Bateman: That is their responsibility now. It also involves plan approvals.

Mr. Williams: They are very much involved in the upgrading of that. Were they also involved in the preparation of the regulations that come into force this Friday?

Mr. Bateman: Yes, they were partially involved. It was really Mr. Hess, working with the hotel industry, who developed those and they were vetted by Roy Philippe as our senior engineer on staff now. He is involved in hotels in that his staff approves plans for new hotels. There is that sort of division of work. John Hess has the inspection function for existing hotels.

Mr. Williams: What are the highlights of the regulations that are coming into force this Friday that you feel upgrade the system?

Mr. Bateman: There is nothing terribly dramatic. As I said, it does bring consistency to the three main pieces of fire legislation that we have—the building code, the fire code and the Hotel Fire Safety Act—to ensure there are no conflicts.

It spells out a number of the issues that were raised at the Inn on the Park inquest. It spells out in considerable detail the obligations of the hotel owner for maintenance of fire protection services and equipment.

It contains certain retrofit requirements. For example, it requires sprinkling in certain areas of

high-rise hotels below the bedroom floors. There is a phasing-in period of four years for that.

Mr. Chairman: Excuse me, Mr. Williams. Before you continue, Mr. Spensieri has a supplementary question.

Mr. Spensieri: Thank you, Mr. Chairman. I just thought it would be appropriate since we had the witness here.

I was wondering when the committee might be expected to come forward with more or less final guidelines for upgrading, retrofitting and general compliance for medium-rise or low-rise residential buildings, and particularly condominium complexes. Will that be in the very near future?

Also, what kind of budgeting time do the various condominium corporations have in making provisions for these requirements?

Mr. Bateman: It is difficult to answer the first question as to how long it is going to take to come up with the guidelines that we will be recommending for regulations, but we are hoping it will be before the end of this year.

Part of this process is going to be to establish reasonable compliance time. All I can say is that we are going to ensure that it is reasonable. We will be working with the building industry, which is going to be very interested in seeing that it is reasonable too.

Right now we do not know what the economic impact of the requirements will be, because we do not have anything on paper yet.

Mr. Spensieri: To your knowledge, is there any distinction being drawn between commercially operated residential accommodation and privately owned and ultimately privately funded condominium residential accommodation?

Mr. Bateman: That is going to be raised; I know that. I know there are different views. Fire officials are apt to say: "What's the difference? As far as we are concerned, they are buildings 20 storeys high with two stairwells; they are subject to the same fire load and have to meet the same building requirements to be constructed." I do know that is a problem that is going to be looked at.

12:10 p.m.

Mr. Williams: In your inventory of motels and hotels around the province, what is the total number at this time?

Mr. Bateman: I was afraid you would ask that. That has been an elusive figure. It is something more than 4,300 hotels. It has been sort of bobbing up and down, depending on the number of beds, whether we include some marginal types of accommodation that might be

considered lodging houses or bed and breakfast places. The hotel industry would like to see all bed and breakfast places subject to inspection. However, you cannot legislate it.

Mr. Spensieri: Not for the bicentennial, I hope.

Mr. Williams: You indicate about 4,300. I am just doing some quick arithmetic, and please correct me if I am wrong. I refer to Webber's observations about each inspector having responsibility for somewhere between 20 and 40 hotels on his inspection program.

You indicated to me your staff strength is 75 inspectors. Given that each of them has the maximum of 40, I think that works out to about 2,800 hotels and motels. Yet you were assuring me a few moments ago you have a sufficient staff complement to inspect all the hotels and motels around the province at least once and perhaps twice in a year.

Mr. Bateman: Yes. I was trying to assure you of that without verifying Judge Webber's figures of 20 to 40, which I am just not sure about.

Mr. Williams: I think that comes to 3,000 if you multiply 40 by 75. However, you are telling me there are about 4,300. Using those figures, it would appear that about a quarter of the hotels and motels would not get inspected in a 12-month period.

Mr. Bateman: If I may, disregarding Judge Webber's figures, they are being inspected. We find that most of them are small motels of six to 10 units.

Mr. Chairman: Would many of them be high-rise?

Mr. Bateman: They are certainly concentrating on high-rise ones.

Mr. Chairman: Would it also be true that a lot of the yearly inspections would be more or less routine for those who meet the act? I do not imagine you would spend a lot of time with the newer ones or any coming in under the act.

Mr. Bateman: That is right. We do have to spend considerable time with the larger hotels, the high-rise ones. The majority of these 4,300 would be highway motels.

Mr. Chairman: Therefore, Judge Webber's figures are not entirely accurate?

Mr. Bateman: Apparently, they are not entirely accurate. I think his figures cannot apply just to high-rise hotels—that is, six stories and more—under the definition he was working to. I do not think there are 2,800 high-rise hotels. I am not sure where that came from.

I know the hotel inventory has been a figure that has been changing over the years and months. That is probably the average number of hotel inspections our average inspector might make. However, there might be some who conduct 100 inspections a year.

Mr. Williams: Webber simply said each inspector is responsible for 20 to 40 hotels, depending upon population density and geographical area. Still, he seemed to use that as a reliable factor. As he identified your structuring, do you still operate on the basis of having four district supervisors?

Mr. Bateman: We now have six.

Mr. Williams: What two new districts have been added?

Mr. Bateman: We always had the districts in place. At the time Judge Webber was hearing the testimony, we did not have all the supervisory positions filled.

However, in reeling them off, I am not sure of my accuracy, unless it is in my notes here. I know there is southwest Ontario, Niagara and west Ontario. Metropolitan Toronto is one district. Eastern Ontario is one district. I do not know how many I am up to. There are two in the north, northeast Ontario and northwest Ontario.

Mr. Williams: In setting up these two new districts, you must have recently appointed two new district supervisors. Who would they be?

Mr. Bateman: We have some supervisors who have come from the Liquor Licence Board of Ontario. Some have come from the five staff that we had.

Mr. Williams: Now that you have offered that information, what is the breakdown of the six? Who came from the board direction and who were on staff with you?

Mr. Bateman: I think it is two and four, with the two being from our office staff, but I am guessing; it may be three and three.

Mr. Williams: Can you confer on that with me and perhaps verify who they are?

Mr. Bateman: Yes, I will be glad to get back to you on that.

Mr. Williams: I guess that brings me back to one of the questions I raised in my initial general observations. Because of the nature of their work, would those personnel who came from the board have a greater expertise in inspection work of hotels?

Were the five from your staff involved in that type of work prior to the merging of them? Were they doing other things? Did they require some type of course instruction or upgrading to give them the equivalent expertise which the board people had, or was it the other way around?

It comes back to the question I raised as to what is being done in the area on which Judge Webber comments. In a very complimentary way, he said he felt there was an upgrading program of training of the inspectors going on. I am just wondering how the two divergent groups were brought together into a uniform training program and who had the advantage over the other as far as the better training is concerned.

Mr. Bateman: I think our staff had the advantage; they all had fire department experience. They are graduates of the Ontario Fire College. That was a condition we made in hiring them as hotel inspectors.

I believe one or two of the liquor licence board inspectors had taken courses at the Ontario Fire College–I guess they graduated–but most of them had not. They had periodic seminars on fire safety. We have put them on over the years.

12:20 p.m.

Mr. Williams: As graduates of the Ontario Fire College, would they necessarily have as intimate a knowledge and understanding of the intricacies and details of the Hotel Fire Safety Act itself? I assume the inspectors who came from the board would have to have this because of its being their sole raison d'être.

Mr. Bateman: Some of the Liquor Licence Board of Ontario inspectors did have quite a detailed knowledge. Some of them did not.

I think it was probably the practice that when they encountered something that might be a problem in a hotel-this is with the LLBO-they would raise it with their supervisor, who would deal with it.

Your point is probably valid. A fire prevention officer, having attended the LLBO and coming on to our staff, might not be as conversant with the Hotel Fire Safety Act, but I think they really were. There is a provision in the hotel fire safety regulations for assistants to the fire marshal to enter and inspect hotels, and most of them did that. The hotel fire safety regulations are on the curriculum of the Ontario Fire College.

I think they are pretty knowledgeable. More importantly, they were knowledgeable about the reasons behind the regulations.

Mr. Williams: What is the situation today with regard to the educating and training of your staff people? Judge Webber seems to be quite laudatory in his observations.

Mr. Bateman: They are all trained now. We had to put on an intensified program that lasted three to four months when we first brought them over. Of course, that has long been completed, and they have a lot of inspection experience under their belts now.

We have had half the staff in this week on an updating training program because of the new regulations, so it is an ongoing thing.

Mr. Williams: Was there anyone in your office who was given the responsibility of developing and refining your training course in hotel inspections—not only as it relates to the new regulations, but also improving the quality of the program that you would be making available on hotel fire inspection?

Mr. Bateman: John has had the primary responsibility. He was helped by Don Evans, I believe, one of the inspectors who came over from the LLBO. Any people who did have expertise in a particular area were used where they could be.

Mr. Williams: In wrapping up, I want to come back to the question raised by Mr. Spensieri. It concerns all of us.

I do not think there is any doubt that your office is moving as quickly as possible to address many of the recommendations in the report. We want to be satisfied there is a time frame within which you are working that is not too far distant, and that it is not an open-ended thing that is going to take an indefinite period of time to put together in meeting all the recommendations of the Webber commission.

I do not know whether, in fact, minister, you have yet identified all the recommendations as being those your ministry would want to endorse totally, or whether there are some you feel either might justify endorsement but cannot be met at this point in time, or whether there are some there you feel cannot be realistically met although they might, in principle, be valid.

I just do not know whether you have done that thorough an assessment of all the recommendations.

Hon. G. W. Taylor: Yes, we have that partially done, and we are continuing that process. We should very shortly be able to make, in effect, what is called in our circles here a response to the Webber report.

We want to let those who have prepared the Webber report and those who are concerned in the area know what direction we are capable of going in, and, as you have suggested, where we might perhaps need to realign our resources, both financial and human, to meet some of the

comments made in the Webber report, where we might have to secure further funding or further resources.

However, we are in that process now, and shortly expect to be able to make a response to the Webber recommendations.

Mr. Williams: Just coming back to the answer that was given to Mr. Spensieri's question as to a time frame: were you talking about the fall? Is that the period I heard mentioned?

Mr. Bateman: I was referring to just one element of Judge Webber's report: the retrofit high-rise requirements, which are one of the most complex aspects of his recommendation.

Mr. Williams: The high-rise apartments, as contrasted to the hotels specifically. We are talking about a broader base.

Mr. Bateman: Yes.

Mr. Williams: So that is your priority at the moment, is it? One of the priorities; I should not say that it is the priority.

Mr. Bateman: When the minister responds, I think he will make it clear there are a number of the recommendations that have already been met; and some of it may take a lot of thought.

Mr. Williams: I felt that the minister's statement covered all the pieces, but I just wanted to elicit more information, because I felt that it was as equally an important area as some of the others that were dealt with in greater detail.

I felt that we deserved to get more on the record as to the activities of your particular office, because it is of equal importance. I am sure, however, that your activities have contributed greatly to the fact that there has been a reduction in the incidence of fires. For that, you perhaps felt that it did not deserve the same amount of press here in the minister's statement.

Hon. G. W. Taylor: I am glad you have commented in that way, Mr. Williams, because I feel that way personally.

There are certain areas of the ministry which I am responsible for that seem to attract a greater amount of public attention. However, the very fine work that the other areas of the ministry do-including the coroner's office, the forensic laboratory, the fire and police colleges, and the ongoing work of the Ontario fire marshal's office—deserve credit.

I guess one could probably draw from that the fact that the Ontario fire marshal's office, and the fire departments for which it is responsible, probably do such a good job that we have been spared criticism because of the fine work they do with their inspections and educational programs.

12:30 p.m.

I would like to be able to draw the conclusion that, because of the fine work they do, they do not get some of the public criticism that the other area does. I have commented to different public forums that it is a very volatile ministry, and that all the areas we work with—the coroners, firefighters, fire investigators, school guards, police—are always those items that seem to attract the attention of the media.

There are very topical events. There are the disasters. There are the uncommon situations: the fires, the crimes, and those things that make the news. In spite of all that, I think when you use percentages, a very small percentage gets a great deal of attention. All the good work does not get the attention that some of the minor controversies get.

Mr. Williams: I do not disagree, and that is why I made those comments.

Hon. G. W. Taylor: I thank you for that, and I am sure those in the ministry thank you, Mr. Williams, for your comments.

Mr. Williams: Just a last point, minister. As I understand it, you are coming close to completing your analysis on the Webber report, and I presume you will then be making a statement on this in the near future. When is the near future?

Hon. G. W. Taylor: We hope to make a statement. It will depend on the time frame. If the House is not in session, we will hold what one might describe as a press or media conference. In that way, we—the Ontario fire marshal, myself, and other people concerned—can inform the public as to where we are in response to the Webber report.

Of those features, I have stated which ones we can implement, which ones have been implemented, which ones are close to being implemented and which ones will require further resources, human resources or whatever is necessary.

Mr. Williams: When would this be?

Hon. G. W. Taylor: I am hoping that it will be very shortly, maybe before we recess this summer; and if not, shortly thereafter. We are just about ready to do that.

Mr. Williams: Okay. I had one other matter to raise. It had been raised previously. Unfortunately, I was out of the room when you responded to the questions that had been raised by—I guess it was Mr. Renwick.

They dealt with the issue that has certainly been of some concern to me. It has to do with the operation of businesses on Sunday, and the legislation governing the operation of businesses on Sundays. I am sorry I was not here to hear

your response on that, minister.

As you know, I have raised this matter with you on a couple of occasions in the House. It had long got out of hand, and you were very much aware of that. I certainly appreciated the tough stance you took on the matter.

I know that finding the necessary personnel to deal with the large number of infractions which were occurring makes your work that much more difficult, but it is imperative that our laws, as they exist, be upheld, whether people agree with them or not. For people to be openly flouting the law is something I do not think we can permit to happen and to continue.

As I said, I did not have the benefit of hearing your response to Mr. Renwick's shared concerns on that matter, as I understood his observations. Perhaps, if I had the indulgence of the chair and the committee, you could recapitulate very briefly where you stood on that situation.

Hon. G. W. Taylor: Yes, very briefly. If my memory serves me correctly, we have something in the neighbourhood of eight test cases that are presently going to be considered by the Court of Appeal. We will naturally await their response, but prior to that time I have been quoted previously as saying that it is business as usual for those police officers who are required and sworn to enforce the laws of Ontario at their discretion.

During that period, I was also hoping that, as you have indicated, people would respect the law, rather than disregard it. They are saying they disagree with it, and that therefore they can disregard it, or not comply with it. In other cases, they have interpreted it this way and say that, "Therefore, it does not apply to me," even though the courts may have interpreted it entirely differently.

I will give you an example. When the law was passed, you started with the fact that everybody was to remain closed except where exempted. The exemptions are quite specific and not general in nature: the requirements of floor space; the requirements of closing Saturday versus Sunday; and the requirements of employees. You do not have the latitude of suggesting certain product lines are therefore exempt and, therefore, you can open.

By the way, the other exemption was the tourist exemption, which has been defined by the courts as one that is for a recognized tourist establishment, not just one that will create a tourist situation or might allow someone to make

an impromptu purchase. I am sure my colleagues in this Legislature, if some municipalities persist in granting tourist exemptions that are not within the contemplation of the legislation, might be inclined to request a change in that section to a more accurate definition of a tourist establishment.

As you say, I am sure you can read the transcript later to see my further comments, as the time is getting shorter here, Mr. Williams. But with your support and the support of many people in Ontario from a very broad spectrum of our public, those laws are respected and desired. Albeit there may be a few who may think those dollars they can earn by staying open are their prime concern, but they are not that of this government and of most of the members of the Legislature and, indeed, the people of the province.

Mr. Williams: Thank you, minister.

Mr. Chairman: Thank you, Mr. Williams. I think we should move on to the votes now. We are getting near the end.

Vote 1801 agreed to.

Vote 1802 agreed to.

Vote 1803 agreed to.

Vote 1804 agreed to.

Mr. Chairman: This completes consideration of the estimates of the Solicitor General. On behalf of the committee I would like to thank you and your staff for appearing before us and being so informative.

Mr. Spensieri: Mr. Chairman, very briefly, with the remaining time of course it has been impossible to make specific comments on vote items, but I would hope the minister could be urged, at some time, even though it is not during estimates, to give us some answers to our order paper questions in the laudable manner that the Ministry of Revenue has done.

For your handy guidance, I would provide you with a copy of how that ministry responded.

Hon. G. W. Taylor: You say it is laudable? Mr. Spensieri: Yes.

Hon. G. W. Taylor: Then I will look at that one.

Mr. Chairman: It will be a copy for ever after.

Hon. G. W. Taylor: As I explained at the outset, Mr. Spensieri, it may not be possible to provide all the answers immediately because we do not keep our records that way. It will take some time to pull them out of the records, particularly the format of the last questions you

provided at the very commencement of our estimates, which are the usual questions you have asked the year before. The other ones—

Mr. Spensieri: We are very patient on this side, Mr. Chairman.

Hon. G. W. Taylor: I just flipped to a thing here. My name should not be on that document.

Mr. Chairman: You should not be reading it either.

Hon. G. W. Taylor: No, look, it is my old

legal firm; I am not there any longer. I will have to have them change that. Okay, thank you.

Mr. Chairman: With that; thanks, once again, minister, to you and your staff. To the members of the committee we will be dealing with the estimates of the Provincial Secretary for Justice tomorrow afternoon after routine proceedings.

The committee adjourned at 12:39 p.m.

CONTENTS

Wednesday, May 30, 1984

Ministry administration program:	 J-65
Adjournment:	 J-86

SPEAKERS IN THIS ISSUE

Boudria, D. (Prescott-Russell L)	
Breithaupt, J. R. (Kitchener L)	
Cureatz, S. L., (Durham East PC)	
Kolyn, A., Chairman (Lakeshore PC)	
MacQuarrie, R. W. (Carleton East PC)	
Mitchell, R. C. (Carleton PC)	
Renwick, J. A. (Riverdale NDP)	
Spensieri, M. A. (Yorkview L)	

Swart, M. L. (Welland-Thorold NDP)
Taylor, Hon. G. W., Solicitor General (Simcoe Centre PC)

Williams, J. R. (Oriole PC)

From the Ministry of the Solicitor General:

Bateman, J., Fire Marshal McLeod, R. M., Deputy Solicitor General





Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Provincial Secretariat for Justice

Fourth Session, 32nd Parliament Thursday, May 31, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, May 31, 1984

The committee met at 3:52 p.m. in room 151.
ESTIMATES, PROVINCIAL SECRETARIAT
FOR JUSTICE

Mr. Chairman: Ladies and gentlemen, we will start the estimates of the Provincial Secretariat for Justice. We are here today to review the estimates of the provincial secretary referred to our committee May 17, 1984, by the Legislative Assembly. The time allotted for these estimates is four hours. Does the provincial secretary have an opening statement?

Hon. Mr. Walker: Thank you, Mr. Chairman, for this opportunity to appear before you. This is the first time in some years that I have been before the standing committee on administration of justice. The last time was also as Provincial Secretary for Justice and as, at that time, the Minister of Consumer and Commercial Relations. It is a pleasure to be back here.

I want to introduce to you someone who is making her first appearance in this vocation, Stephanie Wychowanec, QC, was appointed Deputy Provincial Secretary in 1983 and took over in January 1984. She has been very supportive and a wonderful addition to our staff. I was doubling as deputy and minister for six months or so and I have found it very helpful to have Miss Wychowanec take up the important aspect of administration. We are glad to have Stephanie aboard and she will no doubt speak to us in the course of our deliberations in the next two days or more.

With us as well is Ruth Cornish, senior policy co-ordinator within our secretariat. She very ably filled in during the absence of a deputy secretary and we are grateful for that. Therefore, she is very well equipped to answer any questions that may arise.

In order to make plenty of time available for questions, I purposely am going to keep my own introductory remarks to a minimum. I am generally accustomed to four-hour opening statements, but I thought that would not be well received and I have substantially reduced any prospect of that length to a minimum of notes, and I will try to open up as much as possible for questions.

Mr. Chairman: That is very considerate of you.

Mr. Boudria: Do you think you could influence the Minister of Consumer and Commercial Relations (Mr. Elgie) to do the same?

Hon. Mr. Walker: I taught him what to do. I am not going to try to change that.

As Provincial Secretary for Justice perhaps the most important function is that of chairman of the cabinet committee on justice. In carrying out the policy co-ordination and decision-making reponsibilities the cabinet committee on justice focuses on both the traditional responsibilities of the government, such as civil and criminal law enforcement, on the administration of the courts and correctional services, regulatory functions and on the more contemporary ones of safeguarding the basic human rights of the individual living within today's society.

The committee meets regularly to consider policy and program proposals brought forward by ourselves, the Provincial Secretariat for Justice, and by other ministers within the Justice policy field. The cabinet committee on justice also considers proposals referred to it by ministers from two other policy fields, from Management Board, policy and priorities board, and cabinet itself, provided, of course, there is a justice component to be considered.

Through the Provincial Secretariat for Justice, the Justice policy field is linked directly to two other major cabinet committees, the policy and priorities board and Management Board of Cabinet. Sitting as a member of these committees and acting as a spokesman for the field, I try to provide input to the government's major priority setting and expenditures process.

As well as initiating, developing and modifying new policies and programs, the secretariat also consults with members of the general public and with concerned community groups. That is a major responsibility, because increasingly today, citizens want their views to be heard at the cabinet level and they want to contribute to the policy decision-making process. The secretariat is able to facilitate this process by holding both formal and informal discussions with various groups reflecting the many views of the public on major policy issues.

For example, the victims' consultation held earlier in May was an opportunity for the cabinet committee on justice to be brought together and sit as a cabinet committee in a formal setting and hear the submissions relative to the consultation, which were very useful from all our points of view.

In carrying out these different responsibilities, I am supported by a very small secretariat staff which analyses all policy and program proposals submitted to the cabinet committee on justice. Through consultation with the various ministries in the Justice policy field, and the relevant ministries in other policy fields, we can ensure that all implications of the proposals have received due consideration.

As well, secretariat staff liaise directly with nongovernment groups, as appropriate, to hear their views or concerns about proposed policy or program changes. In addition to the key role played in policy co-ordination and in harmonization, the secretariat also exercises an important lead role in new policy development, through a variety of special activities.

For example, the development of a comprehensive government-wide response to the many complex issues posed by the problems of wife battering, represents one area in which the provincial Justice secretariat has exercised a leading role.

Because of the multifaceted nature of wife battering and the fact that it is not just one problem but a composite of many problems with health, social, economic, education and justice aspects, no one ministry alone is able to address fully and resolve the problem. In recognition of this, the secretariat, and in particular the Provincial Secretary for Justice, was designated to take the lead in developing the integrated response by all ministries. This resulted in the development of a comprehensive set of new and expanded initiatives by a number of ministries, designed to improve substantially services for battered wives.

I think those of you who have been part of the process will readily acknowledge the initiatives taken and identified in the blue booklet that was tabled in the Legislature on November 2, and will conclude that we are on the right track with respect to the acceptance of the proposals. Of course, the proposals were by and large the recommendations of the all-party committee that had met earlier.

Many of the initiatives outlined in that document, entitled Family Violence: Wife Battering, Ontario Government Initiatives, which the Deputy Premier (Mr. Welch) and I tabled in the Legislature last fall, have now come to fruition.

The secretariat, in a continued commitment to this issue, convened in January a two-day provincial consultation on wife battering. The objective of the consultation was to address outstanding issues in the criminal justice system with respect to the wife battering problem.

The issues were approached from both the policy development and the service delivery perspectives. Invitations to participate were extended to a broad cross-section of those most concerned with this aspect of family violence. This included local victims' services groups, transition house workers and other community workers, law enforcement personnel and other justice officials, representatives of various professions, and, indeed, members of the Ontario Legislature.

Through the consultation process it became evident that there was no consensus as to how the criminal justice system might best respond to the needs of battered wives. A lack of hard statistical data pointed out the need for precise information on which to base sound policy decisions. Therefore, the secretariat commissioned a series of special projects to meet these identified information needs of the criminal justice system.

The projects are being undertaken in the following areas:

(1) Legal information and counselling services for battered wives; (2) alternative responses to family violence incidents and their relationship to long-term prevention; (3) services for native, rural and immigrant battered wives; and (4) counselling programs for men who batter.

The Provincial Secretariat for Justice also plays a significant role in the development of improved services for battered wives through its active participation in various policy decision-making processes and through its own special projects.

An example of the secretariat's specific initiatives to improve services for battered wives is a grant to the complainant support program of Hiatus House in Windsor. The grant is in the amount of \$30,000 and has permitted the program to continue to operate for the period from January to June.

As a condition of that grant, the complainant support program must collect specifically requested data regarding the services provided to battered wives through the program. An interministerial committee is reviewing the program to determine the extent to which it contributes to the achievement of overall objectives for the criminal justice system. The committee has representation from the Ministry of the Attorney

General, the Ministry of the Solicitor General, and the Ontario women's directorate.

The concern for battered wives represents only one part of an area long a priority for the secretariat: that is, improving services for victims of crime. Victim justice was identified as a priority by the secretariat when I was first here in 1979. Indeed, some of it came out of my co-responsibility at that time, the Ministry of Correctional Services.

We were able to make a presentation in August 1979 to a federal-provincial meeting of Canada's criminal justice ministers. Subsequent efforts led directly to the formation of the Federal/Provincial Task Force on Justice for Victims of Crime, chaired by Don Sinclair, who was then Ontario's Deputy Provincial Secretary for Justice.

The formal report of the task force was tabled at a meeting of ministers responsible for criminal justice in July of last year. A detailed response to the task force is being co-ordinated by our

secretariat.

As a follow-up to the federal-provincial report we released, Justice for Victims of Crime, the Justice secretariat sponsored a provincial consultation on victims of violent crime on May 7 and 8 just past. This consultation served to bring together victims, victims' groups and government officials to consider the needs and concerns of victims of crime.

The aims of the consultation were: (1) to encourage an exchange of views and ideas among crime victims, criminal justice officials and victim justice specialists; (2) to increase public understanding of victim justice; and (3) to identify areas of improvements in victim justice.

The consultation provided an opportunity for victims and their families, specialists on victim justice, legal professionals, community health organizations and government officials, and, of course, members of this Legislature from all parties, to discuss future action required to

improve victim justice in Ontario.

Conference sessions focused on first-hand accounts from victims of homicide, aggravated assault and robbery, and provided an overview of victim legislation and victim services from other jurisdictions in the United States, Canada and Europe. In addition, special working groups looked at specific issues including police and crisis services, compensation and financial support, victim participation in criminal justice and violence prevention.

The consultation also provided an opportunity for participants to make presentations to the cabinet committee on justice concerning the results of their deliberations during the conference. The recommendations from the consultation will supplement the recommendations of the Federal/Provincial Task Force on Justice for Victims of Crime and will be taken into consideration by the interministerial working group preparing the Ontario response to the federal-provincial task force report.

Preliminary evaluations from the consultation suggest that the provision of this kind of forum was an important initiative in the victim justice movement in Ontario. It helped to raise the public awareness of the needs and concerns of victims of crime all over Ontario.

Another area where the secretariat has had a lead-role responsibility is in relation to the new Young Offenders Act. Again, because this legislation has implications for a number of ministries, the cabinet designated the Provincial Secretary for Justice as Ontario's chief negotiator in federal-provincial discussions on cost-sharing for the Young Offenders Act.

Working with the assistance of staff from the secretariat and the relevant ministries, we were able to negotiate improvements in the original federal offer during the course of numerous discussions held throughout 1983 and 1984. One of the most important of these was the change in the federal position from a block funding approach to custodial services costs to a 50 per cent cost-sharing approach for the services. As late as February 1984, acting as spokesman for all the provinces and territories, I was able to secure further improvements to the proposed cost-sharing agreement.

The current phase of this cost-sharing negotiation with the federal government concludes with the signing of an agreement in principle. Negotiations will then move on to the development of a final detailed agreement.

The regulatory reform program is another area where the provincial secretary and the secretariat also provide the lead-role function. As minister responsible for the program, the secretary works with the line ministries to identify and implement desirable changes of a regulatory reform nature. We also initiate meetings with businessmen and other concerned members of the public and with elected officials and senior staff of other jurisdictions in order to develop new initiatives to streamline and simplify government regulations.

As a secretariat, we also exercise a lead-role function with a number of nongovernmental bodies such as the Ontario Coalition of Rape Crisis Centres, the Ontario Native Council on Justice and others.

Another role of the secretary and the secretariat staff is that of supplying a liaison and communications link with various justice-related ministries in the governments of Canada and other provinces, with nongovernmental agencies and with the general public itself. An informed public is vital if the criminal justice system is to function and evolve smoothly.

Recognizing this need, the secretariat has undertaken to develop the justice week concept as an educational outreach and support for local initiatives which help to provide public education and information about justice in our society.

On December 16, I announced to the Legislature that the week of April 8 to 14 in 1984 would be Community Justice Week in Ontario. During that week, communities across the province were encouraged to promote public awareness of the justice system. The special focus this year was on the needs and rights of victims of crime and on the services available to address victims' needs.

The Justice secretariat provided leadership in developing the theme. The theme was identified as "Justice for Victims; Let's Care and Share." The following were its main objectives: to increase public awareness of victims' rights, needs and services in Ontario; to encourage responsible citizenship in achieving justice for victims; and to stimulate community cooperation in building a strong and effective justice system in the province.

4:10 p.m.

Community Justice Week, the second such annual event sponsored by the secretariat, provided an opportunity for educational outreach by drawing public attention to the needs and rights of crime victims and their families. The theme emphasized the growing public concern for victims and the needs for community responsiveness to ensure that victims' concerns are addressed, that their emotional, physical or financial suffering is eased and that they have some assistance in coping with the after-effects of their victimization.

Preliminary feedback supports the finding from last year that the Community Justice Week initiative is a positive and effective educational tool for highlighting particular justice issues and for promoting responsible citizen involvement in combating crime.

In the next several months, the secretariat will be exploring ways of developing closer links with similar public awareness campaigns, such as Police Week and National Crime Prevention Week, to maximize the benefits derived. Mr. Renwick: We will not have enough weeks in the year if you are not careful.

Hon. Mr. Walker: We are going to enlarge the number of weeks in the year. That will be done by order in council.

Mr. Renwick: If we did it by doubling summer time, we would have a few extra hours in each day.

Hon. Mr. Walker: Yes, staggered hours. We will achieve that.

The secretariat often acts as a clearing house for information, not only on Ontario government programs and policies but also on the programs and services provided by other governments or nongovernmental bodies.

The secretariat staff participates in and contributes to a wide range of intergovernmental committees and other activities. These include such diverse matters as drinking and driving, child sexual abuse and public legal education.

In addition, the Justice secretariat has an important part in the area of research and statistics. The secretariat has maintained up-to-date records of justice system data for Ontario and other jurisdictions and has begun planning for the 1984 issue of Justice Statistics Ontario. This is a biennial publication of the most pertinent justice statistical data available at the time of printing.

To support the publication and to maintain up-to-date statistical records, the secretariat maintains an active liaison and support function with the Canadian Centre for Justice Statistics and is active in the interministerial working group on demographics.

Secretariat staff also carries out a variety of in-house research and statistical services to support both new and ongoing projects. For example, during the past year an analysis was conducted into the effectiveness of the sexual assault evidence kit. Returns were received from over 80 police forces in Ontario about offences, charges and convictions for sexual assaults in 1980, 1981 and 1982.

It was found that police forces not only have a higher charge rate for such offences—an increase from 53 per cent to 61 per cent—but conviction rates for such offences were significantly improved as well. They went up from 36 per cent to 70 per cent in 1982. That is a pretty substantial increase. We would have to say that since its introduction, the kit has achieved precisely the goal intended.

Ongoing statistical support for policy staff has also been provided for such projects as the Young Offenders Act negotiations, the grant to the rape crisis centres and Hiatus House complainant

support programs.

In conclusion, let me say the importance of the Justice policy field is self-evident, since our laws and the administration of those laws guide the daily activities of everyone within our society. The system's basic purpose is to prevent, resolve or accommodate the natural conflict that will arise within any healthy and nonhomogeneous society. As part of this basic thrust, we must also fulfil the government's commitment to assist those who have contravened the law to live within the law.

The protection of the public, the safeguarding of individual rights and freedoms and the ensuring of consistency in the enactment and enforcement of all laws and regulations are the basic concerns of the cabinet committee on justice and the Justice policy field.

Mr. Chairman, I promised initially that I would keep my comments to a minimum and I hope I have achieved that. In the process, I have only been able to give you brief highlights of our programs. Behind these highlights are many details, many decisions and the work of a small but dedicated and most valued secretariat staff.

Those are my opening comments.

Mr. Breithoupt: Mr. Chairman, I am pleased to enter the estimates discussions with respect to this policy secretariat once again and to welcome two people here. One, of course, is the minister in his reincarnation. I can easily put him aside to welcome most sincerely the new deputy minister and to congratulate her on her recent appointment.

In the activities of this ministry since January, I am sure she has brought a particular sense of necessity for change in a variety of areas. As we look at the development in the recent past of the ministry's strengths in the wife battering circumstance and the involvement in the Young Offenders Act, I am certain she will add tremendously to the ongoing responsibilities which this secretariat will have in the future.

I should advise her that she is likely to be quite safe should a Liberal government be formed in Ontario because, while we intend to do away with the minister in that responsibility, we certainly will not do away with the deputy minister, the staff or the responsibilities.

Hon. Mr. Walker: That is exactly opposite to what I told her.

Mr. Breithaupt: She need not fear for that particular. In any event, I do welcome the appointment. I think it is a most fortuitous one. I believe in one fell stroke, the present government

has doubled the number of women who are deputy ministers.

Hon. Mr. Walker: We have increased the number of Queen's Counsels in the secretariat by 100 per cent.

Mr. Breithaupt: It is marvellous what progress does occur. I do wish her and the members of the staff a most productive future, particularly as they deal with the variety of subjects, not only to which the briefing notes refer but to which the minister referred in his opening comments.

There are three themes I would like to look at in my opening remarks. They are ones which need some stronger input and two of the cases require some further explanation. Also, I would like to deal with recent circumstances, particularly with respect to the Young Offenders Act.

The first theme I would like to look at does not appear directly in the estimates, discussions or briefing notes. It is the continuation of the bail verification program.

The minister will recall that on the last day of the session in December, fortuitously or not, the concurrence with respect to the estimates for his secretariat and for the Ministry of Correctional Services happened to be before the House just before adjournment. We read in the press of that day that the bail verification program, under the responsibility of the Ministry of Correctional Services, was not going to be continued.

Somewhat to the annoyance of my colleagues, I was pleased to spend a bit of time discussing those themes on that day, because it is this kind of program which, in my view and in the view of a variety of others, gives very good value for money. It would appear the difficulty is that it was not the kind of value for money in which the Ministry of Correctional Services was particularly interested. For a variety of reasons, they felt this program did not suit their responsibilities. Albeit the minister was of the view that it was otherwise a good program, it appeared to be simply not a program that his ministry could relate to as well.

4:20 p.m.

Trying to be as charitable as possible, the suggestion which I made was that this may be something whereby a line ministry gives up a particular program and function which may well be seen to be more a policy area if the ministry does not wish to continue it on its own. This was the burden of my comment, as the minister may recall, because it is a subject and an area in which many people in the province are greatly interested.

As recently as May 3, the minister stated in the Legislature that the exact funding of the program as of September 1, 1984, was unclear. Earlier, the announcement was made that the funding would be terminated on March 31, but in fact it was continued to that point.

Even the continuation of funding produced an outcry from a variety of groups who were involved in the program. As I recall, there were some 12 or so locations where this program was being used—most particularly, from my own experience, in the Kitchener-Waterloo area.

September 1 was the date for at least interim funding. Now I understand, as of yesterday at least, that a committee of cabinet has decided to extend further funding for the balance of this fiscal year, to March 31, 1985, at the same 1983-84 contract level. I certainly believe that the future of this bail verification program has to be made clear and secure as soon as possible.

If there is to be an internal review of the program which provides the Ministry of Correctional Services with the basis of its previous decisions, that internal review should be made available to all concerned. The organizations which have been providing these contract services, whichever they may be, will know what their apparent failings have been, or at least the reason those services are thought unworthy of continued funding in their communities.

I certainly believe that a future review of this area has to be made in an open fashion to allow for input from the various groups involved.

Mr. Andrew Telegdi is a person in our community who is involved with the youth in conflict with the law program. This program had provided a variety of these services. When this announcement was first made, he was most active in attempting to encourage and stimulate the other program participants into some sort of joint event, some sort of joint lobbying campaign.

A variety of letters was prepared by a community based and sponsored group of citizens who became involved in the program within Kitchener-Waterloo. I know of some of the involvement, and I know many of the people involved, not only the four members of the Legislature and the three members of Parliament from the Waterloo region, but also everyone from the chief of police to a variety of business and other community leaders who saw this as a most worthwhile program for our community.

Whether or not these programs have the same balanced interest and community support in other communities, I simply do not know. However, certainly within the Waterloo region—within Kitchener and Waterloo particularly, and also to some extent in Cambridge—this kind of program has been well-received, and has apparently had very good results at minimum cost.

As I mentioned, as of several days ago there has apparently been a decision made to continue the funding of the program at the 1983-84 contract rate, at least for this fiscal year. I would look forward to a commitment for the future, but that obviously cannot be readily given by the minister, even if the funding for this program is to be shared between the secretariat and the Ministry of Correctional Services.

Further information would appear to indicate that an independent review is to be conducted. The Ministry of Correctional Services is apparently taking steps to get that under way.

I suggest that, ideally, the contract for such a review should not be granted until at least a number of the representative organizations involved in these bail program units have provided some input. Furthermore, the reviewing committee should oversee such a study, with representation on it from the bail program unit directors.

I realize this is a situation which is somewhat curious because what has become a program delivered through one of the ministries appears now, for one reason or another, to be reverting, in part or possibly in whole, to a policy secretariat which was never designed or meant to be doing that kind of thing.

Occasionally it would appear that one of the useful functions of a secretariat will be to take in an orphan or two from the storm, that is programs that cannot otherwise find a ministry home. If this is the case in this instance, it is to be hoped it can be accommodated with the prospect that perhaps, and more appropriately, another line ministry in the policy field would take on this responsibility which should not really be an ongoing duty of a policy secretariat, in my view.

I do suggest if there is considered to be any uncertainty in this area, perhaps the policy secretary will take the opportunity to clear this up during his response to my opening comments. Certainly, any review in this area should begin quickly.

We had the termination of the funding as of March 31 suddenly changed so that the extension will get us through the first five or six months of the fiscal year. Indeed, that period of time is itself now half over. Any review of the validity and value of this kind of program is going to have to be accomplished fairly promptly during the summer months when, with vacation schedules

and persons who would make a contribution perhaps being unavailable, the difficulties are somewhat greater than during the ordinary spring

or fall working terms.

Every effort has to be made to continue this kind of program which I believe deals with a significant social need and does help to improve the image of the justice system, especially in the eyes of those who come in direct contact with it. Surely, the right to be free from undue detention prior to trial cannot be limited only to those of substantial means. Otherwise, the presumption of innocence and the right to liberty is eroded and the whole administration of justice is brought into disrepute.

I need not remind the minister, when he refers to the whole theme of Community Justice Week in his opening remarks, that as he well knows this project started in Kitchener. It was started substantially by the one and the same Andrew Telegdi to whom I have otherwise referred.

Community Justice Week in our Kitchener-Waterloo area has been a great success. The annual dinner meeting, now attended almost routinely by both federal and provincial ministers who are able to be present, has been well received. Usually, 300 or 400 people will gather from a variety of interests involved with the administration of justice.

I regret this past year I was not able to be present. It was perhaps the first one I have missed since they began, but it was well received and the attendance was such that it should seriously encourage the continuation of this program in our area and obviously, as the minister has done, should stimulate a variety of other communities to do the same thing. There are perhaps some 50 communities now involved in programs of this sort. That is most commendable.

4:30 p.m.

It is a program such as this, this bail verification program, which in our community shows in a realistic way the activities of the delivery of justice within the community in a very personal and direct manner and deals with persons who otherwise would not have the opportunity to participate in the kind of program that not only prepares them for their eventual trial, but we also hope saves all of us as taxpayers the required cost of keeping such persons in custody.

The second theme I would like to address for a few moments is that dealing with Ontario's relationship to the Young Offenders Act. On April 2, 1984, the federal government proclaimed the Young Offenders Act, an act that was passed by Parliament on July 7, 1982. Since that time implementation of the act has been held up because of the valid cost-sharing concerns of the various provinces.

The concerns, however, seem to be underlying the resistance on the part of this government to getting on with the task of being prepared to implement the act. I noticed a variety of articles in the press that commented on whether Ontario was ready or not, whether the judges were ready or not, whether the courts' administrative staff or the lawyers or whoever were ready or not. Some said they were and some said they were not; others were looking forward to more materials and more information and background.

I would not be able to judge whether a certain person involved in the program is going to be fully prepared or not. I am sure no one on the first day of a program would feel confident that he or she would be able to deal with anything that

might come up.

However, the fact that there seemed some uncertainty, not only with the bar but with the bench, as to powers and responsibilities and as to the proper application of a variety of statutory traditions did cause me some concern. It would appear that the unpreparedness was somewhat greater than I would have thought would be the case in a program that has taken some 10 years finally to get to the stage of proclamation.

I know the cost-sharing aspect of it has been a long-time thorny problem. Some of the comments that appeared not only in the briefing notes but also in the initial comments of the minister this afternoon referred to the difficulties he has had as the spokesman for the provinces, the point man in this exercise, when he has attempted to sort out just who is responsible for what.

It reminds me of that rather apocryphal tale-I suppose we can use this kind of comment now-of the native Canadian who was asked to explain what daylight saving time was. In his explanation he very simply, taking a blanket, cut off one end and sewed it onto the other end of the blanket and said: "That is what daylight saving time does. It does not make the blanket any bigger; it just moves one end from one end to the other." Perhaps some of the confrontation we have seen in this situation is akin to that attempt to explain what something does without in fact changing the thing itself.

I am surprised, I must say, and rather disappointed that this ongoing turmoil as to funding should be taking the secretariat and the other responsible persons in the province away from the major task of getting on with the job itself, and I would expect that the minister could spend his time doing things other than haggling over financial relationships.

But the preparation of our court staff, of bench and bar, is something with which the secretariat and the other line ministries could have something to do. I do not know whether or not the minister feels that the preparation has been adequate, that the various decision-makers in the system are confident in their roles, the financial thing aside. I sensed from the comments made at the time that there was sufficient uncertainty to make it at least worthy of a comment, and I would appreciate your view as to the state of affairs now with respect to growing familiarity and acceptance and confidence in the administration of the act.

John Gault wrote an article in the May issue of Toronto Life magazine, which the minister has no doubt seen, entitled "Political Delinquency: Queen's Park is Setting a Sorry Example by Its Procrastination on Implementing the Young Offenders Act." This article chastised the present and former government of Ontario for being somewhat caught off guard by the proclamation of the act.

I do not necessarily share that point of view. I think it knew the proclamation of the act was coming but rather hoped that calmer heads might prevail in sorting out the financial obligations. However, the act is with us. There are a number of policy questions that still have to be resolved, particularly dealing with the jurisdictions of the ministries of Correctional Services and Community and Social Services.

It also appeared that negotiations with the Law Society of Upper Canada, in order to provide for adequate legal aid, have not as yet been completed. The secretary can perhaps speak to that from a policy point of view. When the matter was last debated in the Legislature on April 17, and a discussion of the implementation of the act was held, there were still not sufficient answers provided to these concerns of division of jurisdiction and of the Law Society of Upper Canada's involvement.

I understand that Prince Edward Island, Manitoba and Saskatchewan have all signed the cost-sharing agreements with Ottawa. I would like to hear from the minister what progress has been made and whether he can advise us if other provinces have signed, and what is the current state of affairs so we can see where we are going in this legislation.

I would like to hear more from the minister about divided jurisdictions between the minis-

tries of Correctional Services and Community and Social Services. I do not know why this two-tiered approach has been developed.

One might presume we find ourselves in this circumstance particularly because of financial considerations. If that is the case, I would like to have that confirmed. If not, since basing something on financial considerations is, in my view, contrary to the spirit or intent of the act, perhaps we could hear why it exists and when it might be resolved.

Have there been any problems in implementing the act as a result of this cost-sharing deadlock? I noted that several provincial court judges, I think in the Brampton area, were uncertain as to their jurisdictional matters.

The Attorney General (Mr. McMurtry), in response to a question, said he was making application, I think that very day, to have an interpretation of the statute with respect to the powers, duties and obligations of the provincial court judge in the particular circuinstances that were discussed in the cases that had been refused by those judges.

I do not recall the Attorney General responding as to the results of his application. Perhaps the provincial secretary could comment briefly on that in his review of where we are at the present time since, of course, the estimates of the Attorney General will not be before us until the fall.

4:40 p.m.

I would like to know why there seems to have been such a turmoil in the attempt to develop a formula for funding between the provinces and the federal government. It would have seemed possible, to an innocent outsider looking in on these matters, to think that ongoing cost sharing could be arranged as the programs developed, so that although the actual costs might not be known today, the division could be agreed upon appropriately when more experience was acquired.

Surely when one enters into a new program, in anyone's guess the costs are more likely to be higher than they are to be lower. I would have thought there would be sufficient goodwill to go into this kind of a program so we would have been able to come to some agreement. The minister and his colleagues were involved in the meetings and I was not, so he may be able to tell us what the problems were and why this formula appears not to have been more readily obtainable.

Is there a policy now that has been developed in the secretariat to encourage the Attorney General to designate the various youth courts and judges? Apparently it was this lack of designation that caused the turmoil in Brampton, although I understood in speaking directly with the Attorney General that that was an incorrect interpretation of the powers of the judges and that we had in fact, through certain amendments brought in during this past year, resolved their concerns in effect, whether they realized it or not. Presumably those concerns have been attended to and that is now in place.

The third area I would like to talk about from a policy point of view is that of television in the courts. On January 26, 1984, representatives of the Radio Television News Directors' Association of Canada appeared before the standing committee on administration of justice during the time when we were discussing in committee Bill 100, the new Courts of Justice Act.

The provincial secretary will be well aware that the entire restructuring and reorganizing of the courts within Ontario is something that is not entered into lightly. Indeed, it is not something that one expects to see on a couple of occasions, even during a lengthy career. I think my friend, the member for Riverdale (Mr. Renwick), could say that not even in his time in the House has this kind of legislation come before us, and it is not likely to come before us for many more years.

When this group was before us I thought they presented a reasonable case for the allowance of the electronic media more readily before our courts. They emphasized that the term "public hearings" becomes somewhat meaningless if the contents thereof cannot be broadcast to the public in a form by which many people receive their information about the daily news, that is, on their television sets.

The reality of the situation appears to be that for the vast majority of the public, of course, their personal attendance in a courtroom on any occasion is most unlikely. The information which we were met with as committee members was based particularly on experience within American courts, but the experience appeared to be a positive one.

The present situation which now prohibits electronic access is going to be continued under the new Courts of Justice Act. Apparently the Attorney General is personally opposed to electronic access and the Canadian Judicial Council in what surely, with the greatest of respect could only be characterized as a terse comment, simply said, no, there was not going to be any. There were no particular reasons.

I do not know how long the matter was considered. Certainly there was no opportunity for any hearings or general information to be received by the Canadian Judicial Council in my knowledge, but the decision apparently was made that this was not going to occur.

I would think that most would acknowledge there have to be concerns which exist in permitting electronic access to the courtroom, particularly as you are dealing with the rights of individuals. You want to have a trial that is fair, that is seen to be fair and that is not disrupted in any way by a circus-like attitude or a great crush of activity which might have most unfortunate results.

If the Attorney General has decided from his own personal point of view that this is not a particular issue which he currently has time for or an interest in, it may well be an issue that the policy secretariat should consider.

This is an issue in which there are a large number of rather broad policy issues—in the administration of justice, in the future of communications within the province, in the development of a variety of programs and public interest groups that have a greater sense of wanting to know what is going on in the courts and in the justice system in its entirety.

I believe that experimentation with electronic access is clearly called for. The Grange commission demonstrated that a tribunal can certainly function with television coverage, whether the Attorney General thinks that coverage was incomplete or, on occasion, unfortunate, or whether he might prefer that it had been edited one way or another.

The public interest which has developed from having the Grange commission reported on a current, daily basis, from seeing the participants and from getting at least a sense of what was going on in a most interesting and intricate hearing that affects and interests us all, has given an opportunity to the secretariat to go to the next step.

It does not matter whether a tribunal involves the Ontario Highway Transport Board, on occasion, or something of great interest in a trial court or anywhere in between. The fact that the Grange commission could operate in the presence of the electronic media—and, to my knowledge, without objection from any of the participants who felt that they did not have a fair and balanced opportunity to present their own cases—shows there is an interest.

I believe the interest is as great on the part of the media in trying to do a fair, efficient and thorough job, as it must be primarily on the shoulders of the commissioner or the judge involved, as well as the participants, their counsel and the general public.

If one looks at the Charter of Rights and Freedoms-perhaps section 2 itself, which gives a right to freedom of the press and other media communication—there is going to be the kind of door which will justify moving through into a revision of this age-old prohibition of media access to the courts.

We all know, within our own Legislature, that media access brings uncertain results at times. The camera is not always focused where each of us may wish it to be. Surely, however, it is curious that even our own educational television network in Ontario is busy reporting the question period in the House of Commons but does not have the same opportunity here.

That, however, is a subject for another day, other than to say that the interest in access, not only to this Legislature, but particularly to the various locations where justice is administered in the province, is something which is growing, not simply out of idle curiosity but because it seems to be a topic whose time has come.

4:50 p.m.

I commend to the secretariat the taking on of studies in a new project, now that other matters of far greater priority, such as wife battering and victim justice, have begun their process within our society. That project could well be some definitive study in the whole theme of television within the justice system. That system, of course, allows a much broader base than solely the responsibilities of the Attorney General.

The key point is that public trials are an essential cornerstone to our system of justice. Changing times and modern technology, of course, call for a substantial rethinking of the prohibition against allowing electronic media into the courtroom.

The judges who appeared in various informational programs and gave interviews—some of them as parts of the programs, some of them on additional footage that was available—thought that justice had been served. It did not matter whether they were provincial, county court or High Court judges. They were not confused or upset by the presence of cameras. Plaintiffs and defendants, prosecution and accused, all felt that fair trials had resulted, without the kinds of turmoil we would all hope to avoid.

Those are three themes I would like to have addressed: the idea of the bail verification program and the home that it might find; a further

explanation of the Young Offenders Act under the various headings I have raised; and, finally, the prospect of taking on the responsibility for a definitive study of the use and value of television in the courts of Ontario and, indeed, in the administration of justice system in Ontario in the years to come.

I welcome the response the minister will be able to make to those three themes. I will save some particular questions and comments for the other matters as the votes are discussed.

Mr. Chairman: Thank you, Mr. Breithaupt. We will now turn to the NDP critic of the Justice policy field, Mr. Renwick.

Mr. Renwick: Mr. Chairman, I welcome the opportunity to participate today and tomorrow in these estimates, short as the time is that we have allotted to us for their consideration.

I join with my colleague, the Liberal Justice critic, in congratulating the deputy on her appointment. I share the general sense of approbation that was brought about by your appointment, and, certainly, whatever the merits of affirmative action programs, you do not owe your position in any way to the need for the government to create some kind of balance in the system.

I think you are in your position because of your own intrinsic merit and long experience and interest in the topics which are before this secretariat. I look forward to an equally long future association with you as we have had in the past.

I would like to have, during the course of the estimates or afterwards, answers to the various points I want to raise. I am not particularly concerned that we try to answer them all within such a short period of time. To the extent that I can be lucid and succinct about areas of concern, I would specifically ask, when the estimates discussion is concluded, that if some areas have not been able to be covered, I would appreciate some kind of brief written response to the areas which are of concern.

In certain of the areas about which I will be speaking today I have made as much use as I could of the legislative library research facility that we have, which does excellent work on a number of areas that are of concern to me.

I would also like you to know that if I refer to any studies or information in particular areas for which I have received research material from the legislative library, or if there are any matters in my comments which you think merit some consideration, you are only too welcome to have them if you feel they would be of any interest.

I wanted, at the very outset, to get something off my mind so that I can deal more equitably with the other matters I want to raise. This involves a question about the attitude of the provincial secretary which has caused me immense personal concern. It is an attitude which he has shared with the Attorney General and with the Solicitor General (Mr. G. W. Taylor)—not about the question of victims of crime and not about the concept of the many useful things which the minister has initiated in that area, but one particular aspect.

I want to do the best I can to correct a perception which has been created in a way that, I think, has clouded the basic issue.

I am not in the least concerned with what confrontations take place between the Attorney General of Ontario and the Solicitor General of Canada. I am not interested in the partisan conflict which has developed over this issue. I am, however, extremely interested in the disservice which is being done to the very legitimate objects that you, sir, want to achieve.

I want to ask you not to use the case of Richard Allen Stephens again in aid of concerns which you have with respect to the national parole system. I want to try, in as measured and as brief a way as possible, to say why I think that is essential.

When Joseph Muglia died as a result of being kicked in that senseless attack to which he was subjected, I was shocked—as anyone would be—at the mindless nature of that assault on a complete stranger, and the circumstances in which it took place. I awaited the decision of the court because of my interest in the questions surrounding that kind of situation, with that mindless type of unnecessary and horrifying violence on the increase.

When the court judgement came down, and Mr. Stephens was sentenced to 21 months, I was shocked by it—speaking only from ignorance in the sense that all I knew was the sensation I had when reading about it in the newspapers.

I immediately wrote to the Attorney General and asked for the reasons for judgement in the sentencing issue, including the submissions of the crown and of the defence counsel. I received them, and I perused them. I am not here to express whether I agree or disagree with what the court did. The court had that responsibility and that obligation.

5 p.m.

It is sufficient to say that, having read all those submissions, and the serious and considered reflection of the judge as he decided what the sentence would be. He decided on 21 months. So it was the court that made the decision and, indeed, that is available to anyone who wants to read it.

I think if someone is going to use the Richard Stephens case the way it has been used here by you, sir, and by both the Attorney General and the Solicitor General, in aid of what may very well be a legitimate concern about the National Parole Board, one should only do it with a clear understanding of what he is saying to the courts about the question of sentencing, not what he is saying to the National Parole Board or to the Solicitor General of Canada.

When the appeal was taken by the crown, I do not know what that decision-making process was because my sense is that the crown at the trial was not in significant or substantial disagreement with the decision which was made. The decision by the Attorney General to appeal may have been prompted by other considerations than specifically that of his agent on the ground at the time of trial.

In any event, they went to the Court of Appeal and I would guess that one of the most experienced, if not the most experienced, judges of the Court of Appeal, Mr. Justice Martin, on behalf of the court gave his decision and increased the sentence to 36 months. You, sir, of course, quoted briefly from that. It is not a very long decision.

You must bear in mind that, for the person upon whom it is inflicted, the relationship of 21 months to 36 months is not a significant, substantial increase in sentence. You will notice that Mr. Justice Martin said a number of things in relation to it. He said 21 months is not appropriate; 36 months is more appropriate.

From the point of view of the nature of the offence and what took place, you are not talking about a trial judge and a Court of Appeal that are in a different world. They are talking within the framework of a fundamental experience that is involved here.

I do not know of the experience of the trial judge, but I do know that I would just take it as assumed that Mr. Justice Martin knew exactly what the sentence of the Court of Appeal meant in relation to the process of the National Parole Board. He was well aware that the National Parole Board operates on that sentence to produce results substantially in accordance with what, in fact, occurred; namely, as I understand it, that Mr. Stephens was released on a day-to-day basis after having served some 10 months of the 36-month sentence. The Court of Appeal was

aware of the consequence of their 36-month decision.

What I am saying is that I believe it is incumbent on you, sir, and on the Attorney General and the Solicitor General to stop using that particular case, because you are, in my judgement, directing your attack inappropriately at an independent institution, the National Parole Board, which is operating within its mandate—no one is suggesting the National Parole Board operated illegally in that matter—and independently of the Solicitor General of Canada, who has no authority over that board.

An argument to change the act under which the national parole is put forward is a legitimate position for this government to take in relation to the federal government, if they have appropriate concerns about it.

It is also appropriate if something is believed about the sentences imposed by the courts, to criticize the courts on those judgements. I was surprised that the attacks seemed to me to have been significantly motivated by the public mood rather than by a clear understanding.

If you were to sit, sir, in Mr. Justice Martin's place, in Mr. Justice Zuber's place, or in Mr. Justice Cory's place, or if you had sat in the position of the trial judge, to try to decide in those kinds of circumstances what is an appropriate sentence, you have to understand that those judges know what they are doing in the world of sentencing, or you have to take the position that the world of sentencing must be changed.

I am very concerned, not about the legitimacy of your concerns—about parole in general, about some aspects of it—but I am very much concerned that you should have been raising the questions with respect to the legitimacy of the sentences, if my perception of this case is correct. I defy anyone on this committee, or anywhere else, to read the whole of the original submissions and the original sentence, and realize the degree and extent of the concern which the court was trying to exercise in coming to a decision in a most difficult circumstance.

I emphasize again that Mr. Justice Martin-that is Goldwin Arthur Martin-knows what the consequences are with respect to the National Parole Board when the court increased the sentence to 36 months. Because of all the circumstances which are in the evidence before them in the Court of Appeal, they know all the difficulties of that sentence.

Again, I remain horrified by that brutal, senseless, mindless, unnecessary violence which took place in that instance. Nothing is going to

bring Mr. Muglia back to life. Society has a difficult question of judgement in relation to sentence. The factors are difficult and complex. Fortunately, the Minister of Justice has moved to have a commission, which I think is long overdue, on the question of sentencing; it seems to me to be a reasonably well-balanced commission which has been appointed for that purpose.

For some time I have tried to get a book which was supposed to be published on sentencing, but I could never get it. I kept being referred to one of the members of the bench in New Brunswick, but nothing ever quite materialized from it. Whether it has ever been available, I do not know. I simply gave up about eight months ago trying to get this

book. I welcome that approach.

I do not mean to lecture the provincial secretary, but I mean to ask him specifically, in the light of my comments, to reread the original submissions of crown counsel and defence counsel and the trial judge's decision on the initial sentencing and the Court of Appeal decision. I think it is the most inappropriate case to call in aid of the legitimate things you and the Attorney General and the Solicitor General have wanted to deal with.

5:10 p.m.

I raised this with the Solicitor General and I will raise it again when we come to the estimates of the Attorney General this fall. You will recall the reason I raised it with you was because it is in the context of your remarks in your opening statement to the victims of crime conference.

The latest volume of statistics I have is the 1982 one. Is the 1983 one available yet?

Hon. Mr. Walker: Every two years.

Mr. Renwick: Every two years, and your reference is to the 1984 one which is going to be in process.

I would like to raise with you a question which I would ask you to consider reviewing. The Public Institutions Inspection Act of Ontario is under the Ministry of the Attorney General. The Public Institutions Inspection Act of Ontario being chapter 412 of the revised statutes of 1980.

I believe there is a developing problem in the courts on the question of whether or not a private institution comes within the purview of that statute which says that panels under the Public Institutions Inspection Act "may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public money."

The case which I have is re Attorney General of Ontario and Tufford Rest Home, under county court Judge Kovacs on November 19, 1980,

reported in the Ontario Reports, 30 OR, second series, when he had this to say, and I am quoting not from the judgement but from the headnote:

"The word 'institution' connotes an establishment, organization or building used for the promotion of some public object. A privately-owned nursing home is not an institution in that sense, even though it receives payment for the provision of extended care services that are insured services under the Ontario health insurance plan, and is to that extent in part supported by public money.

"Accordingly, a privately owned nursing home is not subject to inspection under subsection 4(1) of the Public Institutions Inspection Act"—in this case it was the 1974 act—"which provides for inspections of all institutions maintained in whole or in part by public money."

I do not want to tarry too long over this matter. I understand there is an unreported case somewhere on a similar issue, but saying the opposite of that. Also, for what it is worth, I would draw your attention to the Private Hospitals Act, which states that it means a house in which four or more patients or so are or may be admitted for treatment "other than one hospital or other establishment or institution supported in whole or in part by provincial aid."

I am not arguing whether it falls on one side or other of the question in the definition of hospital, under the Public Hospitals Act, and the definition of sanitarium under the Private Sanitaria Act. In the case of private sanitaria, it is interesting that it is defined to mean "an institution for the care and treatment of mental and nervous illnesses that is licensed under this act" and provides specifically that "Every sanitarium shall be under the supervision and inspection of a board of visitors composed of the senior judge," etc. who are required to make periodic inspections. "Every sanitarium shall be visited and inspected by at least two of the members of the board, one of whom is a medical practitioner, at least four times in every year."

I raise it simply because it is a question that should be looked at and a decision made rather than have these kinds of issues go before the court. I am naturally of the view that where there is public money in place, the distinction should not be based on whether it is a private, profit-making institution, a private, nonprofit-making institution or whether it is a public institution. It should be, because of the nature of those institutions, subject to inspection by panels of citizens.

I would hope that particular point might come to attract your attention. I do not think it is a big point, but it is one that is worth looking at.

The other strange thing is that I looked up the statutes you are responsible for. If I am up to date, the only statute the Provincial Secretariat for Justice is responsible for is this strange one called the Rideau Centre Mortgage Financing Act, 1982. I do not know whether that is an error or whether there is such an act, or whether you, sir, are aware of your responsibilities under that act.

Hon. Mr. Walker: Oh yes, I think that is certainly the case.

Mr. Breithaupt: All of the above.

Mr. Renwick: I did want to draw that to your attention.

Hon. Mr. Walker: I am glad you did. We must inspect our territory.

Mr. Renwick: It is in this official publication. This is the January 2, 1983, one. I do not know whether it is still in the January 1984 one.

Hon. Mr. Walker: I must take the opportunity to inspect the realm.

Mr. Breithaupt: Unless in a fit of pique we have just wiped that off the books.

Mr. Renwick: I will not inquire any further on that. I just thought I would draw it to your attention and let you know.

Mr. Breithaupt: You may have to report annually on this.

Mr. Renwick: The next item I want to touch upon is, again, to request in this particular field that you institute the study which is required, in co-ordination, as you do, with your colleagues, on the question of the use by police of polygraphs.

You are aware that we passed an act outlawing the use of polygraphs in relation to employment matters—complete elimination of the polygraph in that area. Of course, the proceedings and discussions which took place in the House and in the standing committee on the administration of justice are available to you. The police, however, continue to use polygraphs.

5:20 p.m.

I have very serious reservations about them. Indeed, I have to be persuaded before I will accept them. As I raised with the Solicitor General, some day the Police Act is going to see the light of day. Of course, the polygraph is used by the police forces in Ontario. I have been sufficiently worked up about it that I have tried to collect some information on it.

Again, I have had a background paper prepared for me by the legislative library research people, who have pulled together some of the information in connection with it. They were also good enough to get me the transcript of one of ABC's Nightline news shows, which was aired last December. I happened to see the show and they had people on all sides of the question speaking.

There has been significant work done in the United States. I think the implications of its use have ramifications, and not only with respect to the scientific or pseudo-scientific nature of it.

There are ramifications with respect to whether or not it should be used as an instrument for the interrogation of people who are charged or under investigation. It may also be used as a psychological club over someone, in the sense that if you refuse to take one, you are somehow admitting a degree of guilt in the matter. There are many other ramifications involved.

I am also particularly concerned because, quite recently, as was reported in the Guardian, a union was eliminated in Great Britain because of the position of the Central Intelligence Agency on that issue. In areas of sensitivity and communication, a trade union simply refused to bow down to the question that it was subject to polygraph testing for security purposes. There was quite a row in England about it.

Those references are available. It obviously came through the CIA, and I am not particularly an admirer of the CIA in all the aspects of its operations.

I would ask you to consider taking up that question, so that we can have some kind of definitive, authoritative study completed by the time the Police Act is before the assembly—which, if past history is any criterion, gives you a reasonable amount of lead time.

I want to move briefly to another item. I have not been able to stimulate any further interest on your part or on any other person's part—although you did express interest, as did your predecessor, Norman Sterling—in my private member's public bill about profits from crime. I have it in the Orders and Notices, but it does not seem to be going anywhere.

I suppose that, at some point, there will be some issue which will make it topically fashionable for another 36 or 48 hours, and then it will die again. I would ask you to take another look at it. I have no pride of authorship in it. If the government would consider it in some way, I would appreciate it.

I would ask you, sir, to comment on the extent of your involvement in what is likely to happen with respect to enlarging the jurisdiction, extending the monetary limitation and other matters related to the Criminal Injuries Compensation Board.

A number of people have raised it. Mr. Douglas Kennedy, of course, has raised it. It was a matter of significant discussion at your conference. We are all running into cases that are reflecting upon the appropriateness of the present statute governing that institution.

I was unable to sit in on the discussing of that issue because I was present at another panel during your conference, so I cannot comment about the way in which the present administration of the act is being carried on, but there are some very serious problems in relation to it.

It was only last night that a constituent of mine came to see me. He had been injured in 1981 and was the victim of a criminal assault. The case was dealt with in 1982. He made an application to the Criminal Injuries Compensation Board. He had been employed as a machinist. As a result of the attack on him he suffered sufficient agitation that the company finally had to let him go because he was unable to concentrate on what he was doing.

He had an award recently of some \$4,000. He then received the lawyer's account for some \$400 which was to come off that amount through the legal aid system. By this time, he is living on general welfare assistance. So he will net some \$3,000 to \$4,000 which he was hoping would allow him to become independent of the welfare system. Of course, he has now been advised that until he has used up this money, he will not be eligible for general welfare assistance.

It seems to me there are very serious cross purposes about what we are trying to achieve, if one takes the direct line that the reason he was on general welfare was as a result of this attack on him. He then receives the award, which would presumably be of some assistance in getting himself re-established and getting permanently off general welfare assistance, to then be told he must now use it simply for straightforward living expenses. He was hoping to be able to move out of Toronto, where the crime was committed, to another place and try to get back into his own profession and get himself psychologically and emotionally stabilized again.

I am not suggesting for a moment that all those are straight lines, but it raises some of the questions that are involved. Of course you have the benefit of the whole of the recording of the panel at the conference of victims of crime. I

would appreciate if during your estimates, or by a brief note, you could make some statement about where we stand on that matter.

On the question of law reform, while they have done some very good work I find the Law Reform Commission of Canada leaves much to be desired. I was quite concerned. I have not had the new report, but from what I read in the press, the position of attempting to abstract and academize the word "murder" out of the code, in the sort of legalistic, jurisprudential, classification of homicides which has recently come out, would require a great deal of thought.

I would hope you and your colleagues might consider reviewing that report and making whatever appropriate comment you felt should be made to the Minister of Justice in Ottawa. I think I would be very concerned if what I have read about it simply found its way into the law. 5:30 p.m.

I would also ask you, sir, if it is agreeable to your colleague the Attorney General, since he was the one who commissioned the study, if you would, within your role of policy co-ordination among the ministries, with the benefit of input from the other ministries and because the line ministries are often not in a position to do it, take a look at the report of our former colleague, Patrick Lawlor, which he produced in March of this year and which was tabled in the assembly toward the end of March. I think there are a number of worthwhile initiatives suggested in that report that may go some way to deal with this vexed question of a multicultural society, the race relations question and the whole question of the provincial response in the area of hate literature of one kind or another.

Knowing Mr. Lawlor, as you do of course, it can be read because you can for practical purposes hear Patrick Lawlor ruminating as he raises all the various issues in that report. I would ask you to raise with the Attorney General the question of where the report is going. I can raise it of course when his estimates come along, but a line ministry may have difficulty following through on a number of those matters.

I do not want to repeat any of the things which my colleague the Liberal critic, the member for Kitchener (Mr. Breithaupt), has raised on his three specific issues, other than to say I am in full support of his comments and have been following very closely what you intend to do on this question of the bail verification and supervision programs. I will be interested in your responses to him.

I want to make only one brief comment. You do say, sir, about citizen participation that the Provincial Secretary for Justice is able to facilitate this process by holding both formal and informal discussions with various groups reflecting the many views of the public on major policy issues. Early in May I raised in the assembly, as you know, some questions on the bail programs in order to find out where we now stood on them. With Mr. Breithaupt's comments, I have a sense of where we now are, but uniformly-because I sent the questions and response to each of the bail programs across the province to find out what response they would make to it-I get the understanding that none of them have been consulted in any way, shape or form. Yet I think your statement as quoted in the Globe and Mail some considerable time ago, in February of this year, indicated you were going to have a process of consultation.

I will be interested in your response to my colleague, Mr. Breithaupt. I will be particularly interested in the involvement of those people who have been operating those programs, because my contact with them, because of these concerns about the funding and what is going to happen to it, lead me to believe and to reinforce my view, not only of the value of the work which is being done but of the absolute essential need, particularly with the 16- and 17-year-olds coming into the young offender system, the absolute need to make certain that young offenders spend as little time as possible being held because of inability to make bail, having due regard for the public interest and the public safety. I think the bail verification and the bail supervision experience of those programs is most valuable. I will await with interest your comments on those

On Mr. Breithaupt's comments on the Young Offenders Act, I still will never understand the process by which the government appears to have come to the permanent conclusion—I emphasize the word "permanent"—that there is to be a two-tier system under the Young Offenders Act.

I have heard people deny that is so, but not in particularly categorical terms, and that the world is going to unfold; but it is one of those areas where on an appropriate even-money bet I think I would be the winner if the bet is to be payable, say, in the year 1990; assuming, of course, that I am around and that you are still around. So, if you wish to take up that bet, I would be glad to participate in it.

Mr. Breithaupt: I will be glad to hold the money, if you like.

Mr. Chairman: That is very presumptuous on your part, isn't it?

Mr. Renwick: I think that, deep down in the mental subconscious of the government, wherever that may be located at any given moment, it is now etched in stone that the two-tier system is inevitable and permanent. I want to register my objection to it.

On the question of the third item my colleague raised, Mr. Breithaupt and I are seldom in disagreement. I am not going to comment on my views on television in the courts. I listened in the justice committee when the Courts of Justice Act was in front of us and I was provoked, if I could use that in a parliamentary sense, into participating in the clause-by-clause hearings of that bill when it was back in assembly.

Albert Roy, who had been unable to participate in either the second reading or in the hearings of the justice committee, proceeded to give us a second-reading discussion disguised as a clause-by-clause consideration of the bill. The TV question came up, and I had to disengage myself from him, from my colleague Mr. Cassidy and from others and, on April 10, in the evening in the House, my present position on TV for whoever may be interested in it is recorded.

I am opposed to it. I believe I am a reasonable person and could be persuaded, but I think it would be an extremely difficult process to persuade me to accept television in the courtroom.

I am not at all influenced in my view by the Grange commission. I certainly have no objection to the Grange commission. It is not a trial; it was never intended to be. I think it has been a valuable exercise. So my view is that you cannot call one in aid of the other, and I do not want to start down what I call the slippery road on that discussion about it.

Missing children is a matter that I hope would be of interest to you, and, again, I am not in any way knowledgeable about it because I only asked that some information be prepared for me a couple of months ago. I was completely unaware of what was taking place in the United States, and I was certainly unaware of the movie called Adam.

I had asked that some work be done on the question of where we were in Canada on the question of missing children, because I had read one or two comments about the act in the United States, but I did not pretend to understand the ramifications of it or the motivations of it. I asked that some work be done, and the legislative

library researcher produced some material for me in relation to it.

What I have is, first of all, that there is the American legislation, and I have a paper here dealing with the American legislation and of the police procedures in the US on this issue of missing children.

There does not seem to be any comparable legislation in Canada. The documents that were furnished to me included a copy of the procedures followed by the Ontario Provincial Police and the Metropolitan Toronto Police in the case of missing persons. They are substantially the same.

They appear to me to be closely related to the question of the immediate area, the immediate neighbourhood, and the search process for the missing person, as and when it occurs and is reported. However, they do not appear to have anything other than a cursory system of what then occurs if the person is not found—

Mr. Breithaupt: The ongoing.

Mr. Renwick: -the ongoing, continuing follow-up on the matter.

While there is a report that then goes forward to the Royal Canadian Mounted Police, to the Canadian Police Information Centre, and there is a computerized list of missing persons—and this list is accessible by any police force in the province or, indeed, in the country—it still does not seem to come to grips with the problem that has surfaced in the United States.

They, of course, have that same kind of system. However, the particular rationale that appears to have been put forward regarding the Missing Children's Assistance Act—which is presently, as I understand it, before the American Congress—was simply that the bill will stimulate and facilitate the exchange of information which is so vital in locating missing children, as well as in developing more effective and comprehensive strategies to resolve the problem.

Although we have thousands of committed local law enforcement officials who deal daily with these tragic situations, the problem cannot be solved solely at the local level. These children are frequently moved from one location to another and from one state to another. It is clear to me that this situation demands a closely co-ordinated effort among local state and federal officials.

The bill is talking about the establishment of a national toll-free telephone line so that people may report any information they have regarding missing children. It will establish a national resource centre and clearing house to provide

technical assistance to state and local government, groups and individuals working to locate missing children.

The clearing house will co-ordinate public and private efforts to locate and recover missing children by disseminating information on new missing-children programs, services and legislation, and so on. There are a number of things which are filled out in the discussion which takes place.

It is sufficient to say that, with the bill still in Congress, there has been a special appropriation to establish that centre, even though the legislation is not in place. A goodly part of that came from the initiative of John Walsh, the founder of the Adam Walsh Child Resource Center in Fort Lauderdale. It is named after his six-year-old son, who was kidnapped and murdered in 1981.

After I had made that request I happened to sit down and watch the movie Adam. I do not know whether you had occasion to see it. It was interesting that, after the program, they showed some of the photographs. In fact, it did turn out that two of the children were here in Ontario and have been subsequently returned.

There are all sorts of problems involved in it. I am not suggesting that there is some magic system which can immediately be put into effect. I believe there is an amazing concern in the country about juveniles and very young people on the streets in the big cities, in our urban society. There is a very real concern about this.

While we have gone some way in dealing with the civil aspects of resolving these custody disputes between parents, nevertheless, the actual problem of locating a particular child at a particular time, and the whole concern about child pornography and the children being used in those kinds of things, would lead me to believe that while the United States' problems may be, even disregarding the difference in population, of a magnitude that does not exist in Canada, the trauma for any individual family that has a missing child must be unbelievably difficult to deal with. It may be that we would be well advised to look into this whole question.

Mr. Chairman: Excuse me, Mr. Renwick. This may be an appropriate time for us to adjourn.

Mr. Renwick: I can finish this one point. I just have one other comment.

One of the documents provided to me, which again I did not know anything about, is the Tania Murrell Missing Children's Society, located in Edmonton, Alberta. It appears to be modelled in some respects on the United States experience, but it is a recent development. Six-year-old Tania Marie Murrell disappeared on January 20, 1983. She was last seen leaving her grade 1 classroom at 11:07 a.m. She never arrived home, and so on. Jack and Vivian Murrell are still searching.

There was apparently a book published about it which is available in this information. In any event, they have gone ahead and taken the initiative to establish this kind of a society. It just seemed to me that it may well be worth your while, sir, to consider picking up on that concept and idea and developing an interest in it. As I said at the beginning, I am quite willing to provide you with what I have been provided.

Hon. Mr. Walker: There is a chapter in Hamilton.

Mr. Renwick: Is there?

Mr. Breithaupt: Indeed, minister, in your London area I think the organization that is involved with child protection, along with some of the service clubs, is organizing fingerprinting and recording of child data so parents will have that material on hand, should such an unfortunate occurrence arise.

Indeed, the strength within the policy secretariat may well be to stimulate and develop that kind of a program in the same sense that justice week in the community has grown and has a wider and broader interest and experience now throughout the province.

Hon. Mr. Walker: Yes, that has been repeated in Toronto as well.

Mr. Breithaupt: It is being done in Kitchener, too.

Hon. Mr. Walker: And Cayuga.

Mr. Chairman: Thank you, gentlemen. We can resume tomorrow morning after routine proceedings.

The committee adjourned at 5:49 p.m.

CONTENTS

Thursday, May 31, 1984

Opening statements: Mr. Walker	J-91
Mr. Breithaupt	J-95
Mr. Renwick	J-100
Adjournment:	J-107

SPEAKERS IN THIS ISSUE

Boudria, D. (Prescott-Russell L) Breithaupt, J. R. (Kitchener L) Kolyn, A., Chairman (Lakeshore PC) Renwick, J. A. (Riverdale NDP)

Walker, Hon. G. W., Provincial Secretary for Justice (London South PC)



Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates. Provincial Secretariat for Justice

Fourth Session, 32nd Parliament Friday, June 1, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, June 1, 1984

The committee met at 11:21 a.m. in room 151.

ESTIMATES, PROVINCIAL SECRETARIAT FOR JUSTICE (concluded)

Mr. Chairman: Good morning. I see a quorum. We are continuing with the estimates of Justice policy. I believe, Mr. Renwick, that you still had the floor, and I think you had a few more comments to make to the minister.

Mr. Renwick: Mr. Chairman, I took up too much time yesterday. I want to, therefore, complete my remarks.

On the question of drinking and driving, I tried to interest the Attorney General (Mr. McMurtry) in the proposition of a multisupported advertising program. The cost of it would be shared by all of those having interests in the liquor business, from all points of view: liquor, beer and wine.

This would include the breweries, wineries and distilleries, which make substantial money out of it, and, in a sense, should be interested in participating in a well-designed advertising program to change attitudes with respect to drinking and driving. As well, the insurance industry—general, automobile and life—also has a very real interest in this question from a different point of view.

These groups would work with the Ministry of the Attorney General and the Ministry of the Solicitor General, and certainly get some financial support from the Ministry of the Treasury, which, of course, derives major revenues from the liquor trade.

I am not trying to make invidious comparisons between the different interests that are involved. All I am saying is that there is no reason why the Ontario government should bear the whole burden of the cost of a first-class, well-designed, attitudinal change advertising program.

It seems to me that we should have convened a meeting of the appropriate people: James L. Erskine, who is heading up the government's role in that; representatives of the major general insurance companies, with respect to the area of automobile insurance; the representative of the Treasury, which collects so much money from it; representatives of the Liquor Control Board of Ontario itself, which earns money from it, as

well as people from the Ministry of the Solicitor General, the breweries, and so on.

The objective would be simply to work out a four- or five-year, well-designed, well-financed program, with the Ontario government bearing only the appropriate share of the cost. It would co-ordinate what everybody believes to be a slow, too slow, attitudinal change on that question, one that is still wreaking considerable havoc in Ontario.

I know there have been meetings of people from different areas and so on and so forth, but I am thinking of a consistent, well-planned, five-year program in Ontario, with annual reassessments of the program, of simply first-class advertising. I would think that it would be possible to usefully take an initiative to change attitudes in that area.

I will be interested in any comments you want to make about what appears to me to be the inadequacy of the rape crisis centre funding, although you have emphasized the contribution you made to the coalition with respect to the rape crisis centres. It is a matter of immense concern to me. The figures we have indicate that they are vastly underfunded. Yet they provide an essential service, which should not only be properly funded but should have the support of the government in relation to the expansion of those centres.

I come to my very last point, and I do not expect that I can express it as I would like to. If I look at your estimate figures under the standard accounts classification, you have a figure for salary and wages this year of some \$772,100, indicating to me an increase from last year of \$104,200, last year's figures being \$667,900 or thereabouts, which represents to me an increase of 15.6 per cent on a flat arithmetic calculation.

The employee benefits part of your standard accounts classification indicates that last year it was \$114,200 and this year it is reduced to \$87,700, a decrease of \$26,500 or 23.2 per cent.

So far as I can tell in services, the figures I have for last year are \$155,200 and this year \$359,200, an increase of \$204,000 or, on an arithmetical basis, an increase of about 131 or 132 per cent over the previous year.

11:30 a.m.

I do not pretend to understand where all of those figures come out but, when I look at the Public Sector Prices and Compensation Review Act and the question of the average compensation for compensation group in the range of five per cent, then it raises with me serious questions as to what is happening. When at the same time you look at your transfer payments for the various headings which you have shown, all of them are in the very modest range of, comme ci, comme ça, five per cent, more or less. Those figures appear to reflect a very significant shift of financial costs within the limits of the ministry. I do not understand it.

First, I do not understand the substantial increase in salaries on the figures I used and the substantial decrease in employee benefits. There is a very substantial increase in services, but you have made very modest contributions to the various transfer payments areas. Again, the rape crisis centres have run into serious funding problems. I am not a financial expert on these matters, but I would like to have a very clear statement from the minister of what all of those changes are about.

I do not recall ever having seen that in a ministry; it seems to reflect very significant decisions about the way in which your secretariat is going to be operated. I do not presume to know the answers.

If my numbers are substantially correct, they call out very loudly for a clear explanation of what has taken place in the ministry. It does appear to me to reflect, sir, your return to that ministry and must, therefore, reflect also your philosophy about this ministry and your sense of how it should be run. That completes my remarks.

Mr. Chairman: Thank you, Mr. Renwick. I noticed, minister, you have been taking notes. Now would be a good time for a reply.

Hon. Mr. Walker: Mr. Chairman, let me begin in reverse order, only because the comments by Mr. Renwick are timely and relate to the whole issue of estimates. I would like to try to address the standards accounts classification. I am looking at a page entitled such. I believe that has been issued to everybody in advance of this meeting. Mr. Renwick was reading from those notes.

There are some anomalies in it that need to be explained for clarity, of course. Reference was made particularly to the services category, increasing from the appropriation last year of \$155,000 to \$359,000, what appears to be a \$204,000 increase.

In fact, that is a bit illusory because there has been a special \$200,000 allocation for special initiatives in the area of wife battering, pursuant to the report that was tabled by me and the Deputy Premier (Mr. Welch) last November 2 when we presented our government's intentions relative to wife battering.

Most of this money goes to special projects, for instance, the Hiatus House funding. Hiatus House in Windsor is, in actuality, a study of the whole concept of advocacy clinics and the role that they may play in Ontario. There are really two, one being London's battered women's advocacy clinic, which is funded under grants from the federal government and is funded again this year to March 31, 1985.

However, the funding to Hiatus House was cut off by the federal government. After a great plea made by the local member, Mr. Wrye, and by our own people, who had not yet had a perfect chance to assess it because reports had not been submitted, we continued the funding until March. I renewed the funding through April until later on in this year. There are some costs tied into that.

In addition to that, we have five identified research projects that we will perhaps talk about later if that sparks an interest. Those research projects, having gone out to tender, are now being assessed and will be let in the next few weeks. So those projects—rural women, for instance—are addressing those issues.

Mr. Renwick: Can we have just the titles to those?

Hon. Mr. Walker: On the five projects, the actual studies will involve these areas.

First, assessment of programs for men who batter. As you know Correctional Services have had a program called Changing Ways, which has gone through some metamorphosis. Hiatus House in Windsor has a program for men who batter. This project will undertake an assessment of programs such as these.

Second, there is the information study on the resources of the criminal justice system to meet the needs of battered immigrant, native and rural wives. This is an area that was specified by the standing committee, as you know, a year and a half ago.

Third, a study of legal information and counselling services for battered wives.

Fourth, a research study on alternative responses to family violence incidents and relationships to long-term prevention.

Those are the four areas being studied. We have broken them up into five individual studies; we have lumped some together.

These matters went out to design contract initially, and a whole host of people made submissions on them. The design phase has now been completed. We are going to move into the allocation of funds for the studies. They will be awarded in due course on the basis of the proposals that were submitted, on the basis of an interministerial committee that has sat in judgement on the submissions.

This is the kind of thing that \$200,000 is being allocated for. There is a little bit left in it that will be used for other research projects, which will obviously appear during the next year.

I was in Chatham on Wednesday. There is a project of the Chatham-Kent Women's Centre related to a special research study that they may be able to table to provincial proportions—in which case I am very interested in the proposition.

The essence of the studies will cost about \$150,000. This takes the figure up considerably in terms of the services. I suppose that our \$200,000 might have gone to another ministry, to have been quite easily dealt with. As you know, however, since we have crossed so many ministries, it became obvious that we simply had to be the ones to handle the vehicle's distribution.

Mr. Renwick: You go ahead, sir. I have to leave.

11:40 a.m.

Hon. Mr. Walker: I will come back to these when Mr. Renwick returns. Let me go to the beginning of my notes.

Both Mr. Renwick and Mr. Breithaupt have made very substantial and valuable contributions to the debate. I find the comments that they have made to be very helpful, and, indeed, there has been some interest sparked on the basis of their contributions to the debate.

There were three themes addressed by Mr. Breithaupt. Bail verification, of course, was one. I cannot tell you everything about bail verification right now, but I can tell you what I do know. You will have to be content with that, because it is the best available information at the moment.

The bail verification program was started by me, not as provincial secretary, which I happened to be at that time, but when I was Minister of Correctional Services. It was started because we were making rather interesting discoveries that people were being left in jail because they could not raise bail. A judge, feeling that he had to impose something on the person remanded in front of him would say, "I set bail at \$50." Some people could not raise bail. Fifty dollars seems

like a pretty modest amount, but some people just really do not have connections.

Had the judge perhaps realized that the person had absolutely no chance to raise bail there might have been some alteration. He might have required some other kind of bonding in the small "b" sense.

We set up a bail verification project in Toronto that has now spread throughout the entire province. It seems to me there are 28 areas that now have under way a bail verification program of some sort. The program was initially extremely successful. It was accomplishing what it was intended to accomplish. It found ways of letting out people who should properly be out but who were getting stuck in jail simply because the judge levied a rather nominal amount and they had no resources with which to post that kind of financial bail.

That worked pretty well. There was a metamorphosis over the years. The bail verification program started in 1979 or 1980. Of course, it spread and it was quite widely accepted and suddenly had application to the courts from a variety of other ministries.

You have quite properly identified that the Ministry of Correctional Services did not object to the program. They had some problems with certain aspects of it, but their needs were being met only to a tune of a portion. Naturally, they said, "We are being pressed, as all ministries are, and our priorities allow us to consider this important, but maybe not as important as the wilderness camp or some other facility that is being considered for Anishinabi."

These kinds of things were equations that corrections had to take into account. They exacerbated it and brought it to a head. Basically, you know the history. One of the most interesting things has been the reaction to it.

I do not think anybody predicted the reaction. I know my own personal reaction was that here they were cutting a program I had personally been part of tailoring. I felt a bit of me leaving, but then again, the ministry is being run with different focuses and different priorities. Who am I to object? I am not in that job.

While I was concerned about it and all of us were concerned about it, including the Minister of Correctional Services (Mr. Leluk), all of us had to recognize the facts of life, that they had the right to determine their own priorities.

The reaction that came in almost convinced me that we should do the same thing with virtually every government program. Depending on the reaction, that would tell us something.

Mr. Breithaupt: Almost like polling.

Hon. Mr. Walker: Better than polling. It is a litmus test of need. I am convinced that a lot of programs we have as government are not needed. Of course, 99 per cent are. We have to figure out which represent the one per cent and which represent the 99 per cent.

This was a rather interesting litmus test. The reaction was phenomenal. It was not isolated. It was not just Andrew Telegdi's. There was the same reaction in Toronto, in St. Catharines, in

Peterborough.

They say that the idea was not so bad in the first place, obviously, and more important, it has community support. I suspect that we have strengthened the whole concept of bail verification.

When I looked over the 5,000 or 15,000 letters—I never did count them—that had been printed in a special newsletter in the Kitchener area, that were distributed and sent back to Telegdi and his group, I realized that we are talking about a lot of people who had taken the time to register an opinion.

That cannot be ignored. We were impressed by that. That had been a very valuable experience to go through. Were we to do it again, I think we would do it just the same way. There was no support for it prior to December. Now there is amazing support for it. That is useful.

We are now in the process of doing a study. I have indicated very clearly that funds are there for the balance of the year. Technically, they have been guaranteed until December 31, 1984. Practically speaking, in that we have to give 90 days' notice, they are there for the balance of the fiscal year.

We will not get our study report until December. I am worried that we will not get it then. That does not bother me. We will simply renew the moneys as necessary until we have the report long enough to digest it, complete our assessment, and then make our decisions.

I cannot give you a 100 per cent guarantee on this, but it is highly unlikely that we will axe the program. What we are talking about is the shape in which we want the program to be. That shape will likely be somewhat tailored from community to community.

There are some good examples and some good types of organizations running it across the area. We are very grateful for their contributions in operating it. However, we will tailor it according to the needs that best serve the public interest.

We have solved the financial problem. It has not been easy to divide percentages amongst the

ministries involved, but a good number of ministries have been involved, and they are now anteing up their fair share. If they are not happy, they are at least content with the division.

That is resolved, and that is no longer a consideration. It was for a while, and it made the problem just a little more difficult to deal with. Anyway, it is sorted out, and I can tell you that it is basically good for the fiscal year, from a practical point of view, and guaranteed until December 31, 1984. The likelihood of it continuing is immense. The likelihood of it being shaped somewhat differently to meet our own needs is substantial.

On the study, I was hopeful that, today, I would be able to tell you the name of the person who is going to head up the committee. That person is from one of the universities here. It looks as if he might run into trouble from a time commitment point of view. That just may not work out, or we may simply have to extend it.

Whatever the case, when we get the study in, during the period of assessment of the study and even for some time after that, there will be funds guaranteed. It will be the shape that it takes afterwards that will relate to the new funding, whatever that might be.

Mr. Breithaupt: Do you intend that any of the persons in the various programs will be part of the study group, to perhaps assist in considering the terms of reference? It would seem to me that it might be helpful to allow the study itself to focus quite sharply on the particular issues. It might, in effect, save some time, which would, it is hoped, allow an earlier completion date.

11:50 a.m.

Hon. Mr. Walker: I am not sure that it will save time. My guess is it that will lengthen the time. In short, the answer to the question is yes, I think it will be included in some way.

I do not think it is the kind of thing in which the ministers are going to want to sit down and talk to four or five delegations, but—

Mr. Breithaupt: No, I realize this.

Hon. Mr. Walker: Whoever is charged with the assessment and the interminsterial committee undoubtedly will be in contact, as indeed we already have been. We have had a fair amount of consultation on it now. There probably is more knowledge about bail verification in this government than there is about any other single program, short of the Ontario student assistance program. The knowledge level already is at a significant height.

That is the best I can give you. There is no better information around in government than what I am now telling you.

Mr. Breithaupt: I appreciate the comments. I think this will be a clear indication of the government's commitment to appreciate the work that has been done, recognizing of course that the future shape of the program may be somewhat different than what has developed, depending on community needs.

I congratulate the minister for being able to undertake, with the funding circumstance that exists through not only this fiscal year, but in all likelihood until the report is completed and assessment is done for the foreseeable future.

Mr. Renwick: Just one comment on that. My experience with the various centres across Ontario is not all that great, but I certainly have a lot more knowledge now about the matter than I had a year ago. I have been quite impressed with the amount of actual, down-to-earth knowledge that the people operating those centres have about what does occur, who is assisted, and some very sound ideas and thoughts about the matter.

I would think there should be a very clearly planned process by whoever is doing that study of visits and actual on-the-ground contact with the people in the various centres—the one Mr. Breithaupt mentions in Kitchener, the one in St. Catharines, the one in Sault Ste. Marie, and all of them equally across the province. I have been extremely impressed with the sound knowledge, both with respect to the costs of the program and with respect to the needed services which are being provided. If they are ever eliminated, it will have repercussions on the justice system—adversely, I believe.

Hon. Mr. Walker: That is interesting. I share that view.

What brought it to a head very early in the whole plan-before bail verification was introduced as a program-was that one young man in Toronto spent 54 days in jail, waiting for trial, on the basis of \$200 bail having been required. At \$50, \$60, \$70, maybe even \$90 a day in the Metro west detention centre, it suggests to us that we were maybe putting ourselves to some expense when we should not be.

Mr. Breithaupt: I think that is a fair-

Mr. Chairman: Penny wise and pound foolish.

Hon. Mr. Walker: So, we set the process up. Let me just give you this scenario. We found people who were appropriately trained at that level who would turn up in the remand cells early in the morning, starting at 5 a.m., going through the people and basically getting enough information so that when the judge wanted some information about this person, from the point of view of whether he would return for trial, which is the essence of bail—and if there were any question of security of the public; that was not even a consideration during that time by the bail verification worker.

Let us say that in the case of the \$200 or \$250 surety type of person, the bail verification worker would stand up and say: "Your Honour, I have had a chance to check out one or two things with respect to the accused. Yes, he does live at a boarding house on Sherbourne Street; he has been there now close to four and a half months.

"He said he had a job at a service station. I telephoned the service station just after 10 this morning and discovered he has been working there for a month. He has been fairly solid. He has been in every day. He has never missed a day. The owner, Mr. So-and-so, said on the phone that he considers him a good worker."

In that kind of thing, the judge thought, "Okay, that gives me reason to put some trust in the belief that this fellow may return." With people who previously appeared to have no stake in the community, it became a case where the stake was at least sufficient for the judge to allow the person out. It worked, and worked well.

We got into some difficulties. Naturally, organizations build up their own bureaucracies, and that started. Two or three of the agencies that had been involved in the Toronto program, for instance, withdrew. I believe that the John Howard Society and Salvation Army withdrew from among the three-way agencies that were running it.

We thought: "Okay, it has now evolved. It is a chance for us to tailor it to meet our needs. It has been a wonderful experiment. Let us now make sure that the experiment works to accomplish what we need to accomplish." That is the history of it.

Going back to the financial question Mr. Renwick was raising relative to the standard accounts classifications, I might just mention that this does account for the \$200,000. It might well have gone to another ministry, but it was decided that this was the place to house that, because we cross so many purposes.

I might say that the secretariat has come in under budget again. In its appropriation last year, you will see that it had \$1,372,000. It appears to have spent \$1,165,000, according to the preliminary audit. It is a good \$200,000 below what had

been allocated by this Legislature at a previous time. It has underspent.

In the ensuing year, if you note the gross figure of \$1.5 million, against last year's expropriation of \$1,372,000, there is a difference, most of which is accounted for by the \$200,000 increase in the wife-battering initiatives that have been included under our ministry. If you were to deduct the \$204,000, you would see that we have come in with a budget that is less than what was appropriated to us by the Legislature last year.

There are explanations for individual amounts that vary. If we go to the first figure you raised. the salaries and wages, it appears to be up. The appropriation amount was \$683,000 last year. As you know, they are amended to meet the salary awards given out by the Civil Service Commis-

sion and Management Board.

The amount of \$683,768 was the appropriation, and we are up 13 per cent above that. Part of the explanation is that this is the first full year that we will have a deputy minister on the staff, and that has to be included. That does increase it a certain amount.

It also reflects the nature of our increased activities in terms of victim justice and regulation. We are certainly taking some initiatives

We now have counsel with us in the Provincial Secretariat for Justice, in the form of a person who comes with some 10 years' experience at the bar and was with the public trustee's office prior to coming here. It is Mr. McClure, who is sitting at the back of the room.

This is the first time we have had counsel on staff. I felt that if any place needed to have a few lawyers around, it was the Provincial Secretariat for Justice

When I arrived here, I was the only one. We now have Stephanie Wychowanec, our deputy, who is a lawyer; Kent McClure, who is a lawyer; and other people within the ministry who, in fact, could almost-if it were 1956 again-write their bar exams and pass them.

Mr. Renwick: What about the decrease in the employee benefits?

12 noon

Hon. Mr. Walker: If you look at the appropriation, it is \$97,200. We had been estimated at \$114,200. We had our appropriation more accurately reflected at \$97,200, and our actual turned out to be \$91,400. We thought that our employee benefits should better reflect what our actual was last year and, yes, it is slightly

Part of the reason why it was higher last year was that two deputies phased through the process and our secretariat ended up getting the benefit of their benefits on retirement. They have to be allocated somewhere, but John Hilton spent the last six months at the Ministry of the Solicitor General. We thought SG might have picked up most of that but, with the Chinese accounting that I am sure they must go through, our secretariat ended up picking up the special benefits that were awarded to the deputy minister.

Mr. Renwick: Thank you.

Hon. Mr. Walker: I now return to take the items seriatim. Mr. Breithaupt's second theme was Ontario's relationship to the Young Offenders Act.

I fell into the role of being the principal negotiator of the Young Offenders Act-again, because it crossed a number of fields: Management Board, and the ministries of Treasury and Economics, Community and Social Services, Correctional Services, the Attorney General and the Solicitor General. I ended up with the responsibility of negotiating for them.

So far, the provinces which have signed an agreement are British Columbia, Alberta, Manitoba, Saskatchewan, New Brunswick and Prince Edward Island. As far as we know, Nova Scotia and Newfoundland have not signed. Quebec is definitely not ready to sign and we are not very far from signalling our intent to sign.

It will have to be approved by a number of other ministers, but I have a draft letter that we expect to submit relative to our intent to enter into an agreement, which will undoubtedly go forward in the next two or three weeks to Mr. Kaplan.

There is no loss of money in the sense that no moneys would begin before July in any case, and we would not be denied any amount in that period, meagre though it might be. The moneys have been a subject of dispute, but they have been an internal dispute, a dispute that still galls us, indeed. I will come back to the money in a moment.

In all of this time, the ministries have been preparing. Community and Social Services, of course, is one of the ministries very directly involved because it will continue to have-and has always had-the youth who are in the category of 12, 13, 14 and 15 years old. They will continue to have those people.

They have been preparing seminars after seminars after seminars. They have done an extensive job on that, and they have easily been at work on it for the last year and a half. There is not a very big problem with them being ready.

In a moment, I will comment on the state of readiness. The judges, for instance, had a seminar last January on how to deal with it. The police have had a variety of seminars and the crown attorneys have had their seminars on getting ready for it. The ministries have been working, then, while I have been doing the negotiating.

I can tell you that each time we have gone down to negotiate, as far as this province is concerned we have obtained more than we had prior to going in. Incidentally, something like 67 meetings were held, mostly between ministry

staffs in Ottawa and so on.

It is a very confusing area to get a handle on. Very confusing. No one really knew what the experience would be. We cannot predict what it will be with any certainty today, although I think we can say that the costs will increase, as you have well said. I will give you the figures in just a moment. However, we probably have the best possible information of any government across Canada, and our people still have areas where we simply have to guess.

I had always made my submission—and, indeed, I ended up as the spokesman for all the provinces and territories. We met in my suite in Montreal, and we forged out a position. I would like to say that it was probably the only time that all the provinces got together on any one issue.

We were of one mind on what we presented to Mr. Kaplan during the negotiating stage. We were all of the same mind, that there had to be better contributions, better arrangements when it came to what they would pick up, and more lead

time in the process.

All of us asked the same thing: that it be deferred. That was not accepted; it was rejected. We wanted it deferred even to October 1 so that everybody could get ready. It had been deferred once. I guess it had been deferred on other occasions, but it was deferred once in my own participation from October 1 last year to April 1 of this year.

The initial stage was to simply bring those under the age of 16 into the Young Offenders Act. That group would be the first group dealt with. After April 1 of next year, of course, it would be the 16- and 17-year-olds who become a part of it. That is where the major change will come in as far as Ontario is concerned.

As you know, we had our reasons for disagreeing with the concept of the age of 18. We did want 16, and five or six provinces were in that

position, but not all provinces were. Quebec already had 18, Manitoba had 18, and I think Newfoundland had 19, if I am correct. There was a division of opinion on that question.

That was unilaterally arrived at by Parliament without consultation, and we were annoyed about that. We are, of course, the province upon which it wreaks the greatest level of change.

Let me say that we are very supportive of the philosophy of the Young Offenders Act. We feel that it breeds a greater responsibility, and that it recognizes what the Juvenile Delinquents Act of 1909 could not recognize.

That was a totally different world. That is a pretty simple statement, but it was a very different world when that bill was passed in 1909. The patch job to attempt to make it meet the exigencies of a new world—with automobiles instead of horses and all of that—just could not work in the 1980s. That was something recognized, indeed, in the 1960s.

The new act and its philosophies are perfectly compatible with our own government's interest and with what we hope to see achieved. We endorsed that, and every time I spoke on it I made sure that the government of Canada was well aware of it. Indeed, in speaking to other groups, I made sure that the philosophies, concepts, principles, and underlying tenets of the act were perfectly compatible with our own interests. That has been clearly and unmistakably put forward.

We object, of course, to the federal government transferring their budgetary difficulties to us. Yes, they are in big trouble when it comes to a deficit, but what we resent is that they are transferring so much of it to us. After all, they are the ones who changed the act. They changed our lifestyle. They changed what we were doing, and it is going to cost big money.

The costs of the Young Offenders Act are going to be very dramatic when it comes to capital and actual operating costs.

12:10 p.m.

First of all, in terms of operating costs alone, there will be additional costs for the police and the Solicitor General—in Ontario only. The figures we arrived at were established by interministerial and intergovernmental committees.

Mr. Kaplan has nothing to work on. He is simply working from a bunch of fictitious information. Ours is very precise, to the extent that it can be. At least, it is more precise than his because we already have the business. We know the cost to a certain extent.

The police increase will be \$3.7 million; the federal contribution, zero. The court-related increase, in terms of prosecutorial and court costs, is \$9.1 million; the federal contribution, zero.

The dispositional area is basically corrections. The increase there is \$64.4 million. The federal contribution will be \$45.3 million, for an increase of \$24 million on their part. They already provide us with \$21 million and they will give us an increase of \$24 million. They have met our needs there in a greater way.

We have been trying for 50 per cent of everything. That was our goal. We said, "Okay, we will share it half and half." That seemed reasonable. That was rejected.

Of the \$77-million operating cost increase, the feds will contribute \$45.3 million.

Interjection.

Hon. Mr. Walker: It has inched up slightly. Instead of \$45.3 million, it is about \$46.3 million. They at least paid for the trip down the last time.

We estimate that our capital costs will be \$66.2 million, the federal contribution to which would be nil. These are pretty substantial increases.

There will be a \$9.9-million increase in legal aid. I have just received word today that an agreement has been signed between the province and the federal government as it relates to legal aid. That portion is in place.

There is no doubt, however, that there is a substantial increase. The short of it is that there is a big increase in expenditures that we are expected to put up with. I think my capital costs are low now in the light of some of the proposals we are getting. We are really realizing what we have to do. We have had the architects look at the buildings and give us the projections to meet our needs.

I think we are going to be in a somewhat more expensive position. They have transferred to us certain financial obligations to meet the bills that they passed. That is the status of that.

I suspect that we will be signing the agreement in the very near future—at least, we will be signing our draft memorandum of understanding. That should be in place very quickly.

What is going on out in the country at the moment? What is going on in this province? We are unable to determine any substantial problem at this moment, two months and two days into the mission.

There are tiny brush fires here and there that have to be put out, some of which you are aware

of in terms of the justices of the peace and the judges. That has been sorted out. We are unaware of any major difficulties. That is not to say that there are none. However, nothing has yet come to light. Some may not come to light.

For instance, trials may not occur until September. If there are to be challenges, we will not know what the challenges are until a plea is taken and the trial begins.

Right now, there is a challenge under the Young Offenders Act being brought forward by the owners of the Ottawa Citizen. It is on the prohibition by Judge Goulard, I believe, of reporters in the courtroom. There is a challenge being made to the Supreme Court on that issue under the Charter of Rights and Freedoms. I think we are going to see more of those kinds of challenges. We are bound to see them.

At the moment, people who are under 16 and under 18 are being charged as they were before without any major difficulty. They are being brought to trial in a good many cases, as they were before. They are being sentenced to institutions in some cases, and are given their sentences in the community in other cases, just as they were before, except that we now have the philosophy of the act applying.

It will take a while for all judges, crown counsel, police, social workers and, indeed, institutions to have the same even level of philosophy in the application of the act. There is no doubt the changeover has been made, and it has been relatively uneventful—as witness the media. There have been no substantial cases reported, yet I dare say they were looking for the cases. They have not found substantial incidents and we are not aware of them.

There is a bum rap on the word "two-tier." That was something that was first put out in the newspaper, that we have a two-tier system.

First of all, we do not have a system that is any different from what we have today in the sense of the provision of services. We made the decision, largely on some advice I gave, that the Ministry of Correctional Services would continue to look after those people who fall within the ages of 16 and 17, recognizing that the act requires separate facilities.

We do not require that yet, because it is not 1985, and so we do not have to meet that test yet. Correctional Services, however, will continue in that way, and the Ministry of Community and Social Services will continue to look after the ones who fall between the ages of 12 and 16, as they have before.

There is a bit of a gap between ages nine and 12. They are just not covered by any act other than the Child Welfare Act at the moment. One thing we did not want to see was 12-year-old children being put in with 17-year-olds. That was a substantial concern. I think that it would be very difficult in those very formative years.

Many of the provinces are really catching up to Ontario. We have been the leader across Canada in this field, whether you are talking about community service orders, community work, service of the sentence in the community, probation, post-dispositional detention or post-dispositional probation. In all of that, we have been the leader.

Many of the other provinces have to come up to our level. That is a long way to go for them. We have so much of the community concept that is the underlying tenet and philosophy of the Young Offenders Act, to the extent right now that there are 7,000 inmates in adult institutions and 37,000 people are serving their sentences this very day in the community. We are the leaders in community sentencing.

The same thing has application, of course, within the previous juvenile system, now the young offenders system. They, too, fall into that category.

To say that we have a two-tier system is just not accurate. We do not have a two-tier system.

There is no question that we are dividing the people, so that 16- and 17-year-olds will not be in the same jail cells as 12-year-olds. That is not an unreasonable thing.

12:20 p.m.

Mr. Renwick: You will not find me agreeing with that. Twelve- to 17-year-olds, or those inclusive, are to be under the Young Offenders Act, and you have two different ministries of the government dealing with that single classification of people.

It is not a question of whether you and I like it or dislike it or anything else. The fact of the matter is that the persons who are subjected to the administration of justice because of the Young Offenders Act are going to be treated by this government under two separate and distinct ministries.

It is not a question that you have to have separate ministries in order to ensure that 12-year-olds are not located with 17-year-olds. The question is not physical location of the person; it is the very fundamental and difficult question of attitudinal change to reflect the philosophy of the Young Offenders Act.

I had thought, of course, that all the work which was done in the Ministry of Community and Social Services with respect to young people in conflict with the law was designed to work towards the goal of when the Young Offenders Act came into force—that all the persons covered by that would come within the framework of Community and Social Services, and that the philosophy and attitudes of that system would be separate and distinct from the philosophy and attitudes of the Ministry of Correctional Services.

Correctional Services will be dealing with two separate classifications of persons. One will involve those who are subject to the Criminal Code, and to the resulting sentences and carrying out of those sentences. Now you are saying that you will also have 16- and 17-year-olds, who used to be under the Criminal Code, but are now under the Young Offenders Act. However, we are not going to make any changes; we are just going to keep them all in Correctional Services. To my mind, that is quite an inadequate decision on the part of the government.

Hon. Mr. Walker: You are assuming that Correctional Services, in dealing with the 16-and 17-year-olds, will not be able to apply the philosophy of the act as it relates to that portion who are sentenced to incarceration. Remember that those who are not sentenced are the ones who are going to be dealt with, presumably, by the judge, and—

Mr. Renwick: Your assumption is right. That is my assumption: that they cannot adequately administer attitudinal changes of an adult world, in a young offender world, within the confines of a ministry which has been conditioned over the years to the adult offender system.

Hon. Mr. Walker: Remember, too, that to apply that argument means that we would not be able to treat rehabilitation of, say, women and men in a different way. Correctional Services does that very adequately. There is no doubt that there is a difference of treatment, basically, on the same level of care, on the same level of protection or the same level of security, whether it is high security or low security.

In almost all cases the Ministry of Correctional Services will have separate facilities for those who are sentenced under the Young Offenders Act. Those facilities will, of course, be run by them. They will have their own separate division head in charge of the young offenders element of it.

It is simply a question of applying the philosophy of the act that was determined. I see

no difficulty there. They have had some experience in it for 45 years, leading up to 1977. They were certainly the ones in charge of all the juveniles at that time. There is, then, some latent

experience there.

Second, there would be separate facilities. Third, there would be a separate internal administration. Fourth, there would be—not at all unlike other provinces in Canada which have done the same thing, including Manitoba, which has its Department of Community Services and Corrections—one ministry, in essence. It is not uncommon at all. Ontario, Manitoba and Nova Scotia are places where the pre-trial detention and post-trial disposition will be dealt with by the same ministry.

Manitoba has a New Democratic government where the Department of Community Services and Corrections is one and the same. Even within the corrections area the juveniles are dealt with by corrections and the adults over 18 are dealt

with by corrections.

Similarly, in Nova Scotia, which has a connection like that, the Department of the Attorney General looks after the 16- and 17-year-olds, as we do. Social services will look after the 12- to 15-year-olds. Of course, Ontario's program you now know.

So there are other precedents, and when some people make the comment that it is a two-tier system, I do not say it is a two-tier system. There are, of course, two separate ministries looking after it. I think that is perfectly within our capacity and will not present any problem.

Mr. Renwick: On that whole question I spoke in the House at length on Bill 28 when it was first called for debate, and then again last Monday night. The fundamental flaw in the proposition you put forward is the decision to convert the Bluewater centre into a 174-place facility, which cannot be justified on any theory of corrections that I have ever read other than that of direct isolation punishment. To put 174 17-year-olds in the Bluewater facility is contrary, in my view, to the declaration of principles set out in section 3 of the Young Offenders Act.

Hon. Mr. Walker: Where would you put them?

Mr. Renwick: First, I do not think you should isolate them that way. Second, I do not think they should be concentrated, with great respect to that area of the country, in an area that is completely isolated from access to a wide range of other facilities.

I do not know what your intentions are ultimately going to be with respect to northern

Ontario. If you have ever tried to get to the Bluewater centre by bus, airplane or train, you will realize the degree and extent of the physical isolation that takes place in what you are trying to

All I am saying is that that is symbolic to me. That is why I made the appeal to the Minister of the Environment (Mr. Brandt) to have an environmental assessment hearing about that location, not just on the impact on the community but on the impact on the 174 people who are going to be in there.

However, I have expressed my view on this issue in the assembly and I do not imagine that you and I are ever going to see quite eye to eye on

this problem.

Hon. Mr. Walker: I am surprised how many areas there are. There are 700 aged 16 and 17 in the adult system today, and by April 1 next year we have to have a plan in place, if not in fact in operation, that severs those 700 from the adult institution.

My view is that they should not go into the current institutions for 12-year-olds but rather that they should have distinct facilities. We intend to have more then one distinct facility, and I suspect you will find them on a regional basis—something in the east, something in the west, something in the north and probably something in the mid-central area—recognizing that not every detention facility can be built in downtown Toronto.

We have some existing facilities. Being prudent users of the taxpayers' resources, we have to recognize that there are facilities redundant for other purposes at the moment, and we should not ignore that.

It is not always easy to persuade the neighbourhood—witness Aurora—but, by the same token, we have to do the best we can to make use of our resources and to make sure we meet the intent of the act. We are satisfied that we can do it. We are also satisfied that experience will dictate our future course of action. We think we have a pattern that is satisfactory. If five years from now it is not, we will change it; but at the moment we think we are on the right track. There is no doubt of that.

Turning to the comment by the member for Kitchener (Mr. Breithaupt) on TV in the courtrooms, I probably tend to be a supporter of the member for Riverdale (Mr. Renwick) in that case.

Mr. Renwick: My God!

Hon. Mr. Walker: This has caused my staff to say, "We had better start re-examining it."

Mr. Chairman: I even agree with it. 12:30 p.m.

Hon. Mr. Walker: You do? These flaming radicals like Jim Breithaupt have come up with these concepts of TV in the courtroom and Colin Vaughan giving in 30 seconds what transpired over the past five days, in the direct evidence of witnesses, caused some of us to be a little concerned.

I do separate myself from Mr. Renwick in this case. I happen to think that we are experimenting this very day in the Grange inquiry which, though not quite a courtroom, does have many of the trappings of the courtroom and certainly much of its appearance to the public.

The perception certainly is that it is a trial. Not that it is. We know it is not. We know it is a royal commission, and we know its limitations, that being more of a legal argument than the public

probably perceives it to be.

I think that, at the end of it, it will be interesting to assess the success and the damage—and I think there has been both—of television covering the Grange inquiry. I am not perfectly comfortable with the television being there, for some of the reasons the Attorney General specified the other day, but for other reasons as well.

However, I want to reserve my opinion until we have had the complete commission report, and perhaps even some comments by the commissioner. He may choose to comment on the impact of television there, and what it has done.

I have been in city council, and I have been in this Legislature. Television has come to be part of it, where previously it was not. I have some concerns, I must say, as a result of that happening. However, I want to delay any observations I might have until this experiment is really over.

The experiment—as close as we are going to come to a trial—is occurring right now with the Grange inquiry, in so far as it is an experiment on television. I am not relating it to a trial, do not misunderstand me. However, I think it gives us a good chance to gather some empirical evidence on the benefits and shortcomings of television.

Mr. Renwick raised some questions on parole, and I think there is probably a certain amount of support for the comments I am making. Where Mr. Renwick and I are divided in our opinion is on the use of the Stephens case.

I have reviewed, in the light of what you petitioned me to do yesterday, my own use of the case. My conclusion is that it is not untoward to

use the case as an example. I am familiar with the reasons for the judgement, but not all of them, because I have not read the trial judge's comments.

Mr. Renwick: I would certainly appreciate it if, at some point when you have the time, you read the submissions of the defence and crown counsel, and that whole process, including the obvious concern which the judge had in attempting to find the appropriate sentence, believing as I do that all three of the persons, in their professional capacities, were no different from you and I in being shocked and horrified at the senseless nature of the death of the man.

It was interesting that there was another sentence, three years, given out. I heard it on the radio this morning. Again, that sentence involved a violent attack, the case of the young hockey player from British Columbia who was knifed on Yonge Street.

I noticed, you know, that the young man could just as easily have been dead as seriously injured as a result of that. I noticed that the decision of the court—and the judges are not impervious to the senseless violence of that crime, but the sentence was, if my memory serves me correctly, three years.

Hon. Mr. Walker: I now have a copy of the reasons for judgement, the reasons for sentencing at the trial in Peel, and I will undertake to read those.

Mr. Renwick: See if you could also get the submissions of the defence and the crown.

Hon. Mr. Walker: I will see if those are available.

Mr. Renwick: They are. I believe that I have them all, because that is what I asked for.

Hon. Mr. Walker: Maybe I can get a copy from you. I was going basically on the decision of the Court of Appeal, of Mr. Justice Martin, and particularly some of the comments he made in it.

Yesterday you made an interesting observation. I think I might have challenged you, and I think you might have reiterated that judges take into account parole when they make their decisions. They cannot ignore that; that is a substantial part of it.

I would have to dispute that, because while I suppose there is no judge who does not realize that parole might be a prospect in any case, and he more or less takes judicial note of the fact that, for example, Christmas falls on the 25th of December, nevertheless, case after case in-

dicates that a judge must not take into account any form of parole in the sentence that is given.

The best authority we have is Martin's Criminal Code. I will read the comment on parole in section 614, "In imposing sentence, it is the duty of the court to punish in accordance with the established principles and to disregard any policies of the parole board, whose only function is to determine when the punishment may be safely alleviated."

That is the 1963 case of Regina versus Holden; I have the citation, but it is sufficient that it is there. And in a further case: "The deliberate imposition of a long sentence to support the policies of the parole board would amount to an improper abandonment of the delegation of the court's duties to the board. However, a court may, in determining an appropriate prison term, quite properly take into consideration the powers and duties of the parole board." In Regina versus Wilmott, an Ontario case from the Ontario Court of Appeal.

There is ample indication that judges are in a position where they cannot take parole into account. In this particular case, they did take into account, in a Court of Appeal decision that was released on August 23, 1983, Mr. Justice Martin, that: "The courts of this country are required to reflect the strong community condemnation of this type of conduct by the imposition of an appropriate sentence.

"There are, in this case, a number of very positive features in the respondent's background. The evidence indicates that he is a good husband and father, that he has made a positive contribution to the community in which he lives. There are further mitigating circumstances that the day following the assault on the victim, he voluntarily went to the police station and made a complete statement.

"These strong mitigating factors enable us to impose a more lenient sentence than we would otherwise have felt constrained to impose. After giving this matter our very best judgement, we are of the view that a sentence of three years in the penitentiary is an appropriate sentence. This sentence, in our view, gives adequate weight to the factors of deterrence, both specific and general, and at the same time gives adequate weight to the positive features in the respondent's background and to the rehabilitative factor."

And the result: "The leave to appeal the sentence is granted." The appeal was allowed, and the sentence was varied to one of three years, it previously having been almost half that, 2l

months-in, of course, an Ontario correctional institution.

I submit that is an adequate case to show, because what I was complaining about was that the judges very clearly concluded that the 21 months given by the trial court, the provincial court judge in Peel, were inadequate, that in fact one could almost double that and 36 months were more adequate. And, of course, increasing the sentence automatically took it into a federal penitentiary.

12:40 p.m.

So giving 36 months and ruling that 21 months was demonstrably inadequate, for all the reasons, taking into account the mitigating factors that were delineated by the Court of Appeal, my complaint was that the parole board saw fit, after the service of six months, to allow Mr. Stephens to be released and to be on the streets of Mississauga. That was my complaint.

I cite that case and I cite the justices of appeal as valid evidence for the position I have taken. I still say the parole board is wrong. It is wrong because it is short-circuiting the sentence given by the judges. Not only is it doing that, but it is my view that it is significantly out of step with the vast public that feels the more appropriate thing is to serve the sentence given by the judge.

We recognize there is a remission period. A third of the sentence is going to be remitted pretty much automatically, if not totally automatically, at the end of a sentence, although in Ontario we require our inmates to earn the remission—for every 30 days of good behaviour, they get 15 off the end.

Basically, the federal government's approach is to give that in an automatic way. Indeed, I think the way they approach parole is to give it in an automatic way. Ontario will not allow parole in this jurisdiction for people in our system unless at least one third of the sentence has been served. Even then, in most cases it takes a good many applications to get out on parole. The federal government will allow day parole after service of one sixth of a sentence. I say that simply is wrong.

Mr. Renwick: That part of it is not what is at issue. I think I could agree with you that it is time the federal ministries reviewed the jurisdiction of the National Parole Board. It is a separate institution. It is not accountable to the ministry.

There has been a long history in the evolution of that concept, whatever its decisions were. You and I can argue now and then as to what extent the judges can or cannot take into account the effect of it. They are aware of the effect of parole on the

sentence. They cannot say: "I am going to abort the parole system. I would give them this if there were no parole system, but because of the parole system I am going to give them triple the sentence." They cannot do that and I am not arguing that.

I guess my position is relatively simple: I think the sentence was wrong. I do not think the sentence was adequate. That is my feeling about it. I may be quite unusual. I think it should have been more serious, with a longer sentence.

Hon. Mr. Walker: You feel a longer sentence was warranted?

Mr. Renwick: Quoting from the Court of Appeal: "I find that the victim of this assault was an unoffending citizen giving no provocation to anybody. He was pushed and struck by the other two men and ultimately either fell or was pushed to the ground. At that stage the respondent, who had emerged from the bar, kicked the deceased in the back of the head. The kick caused a sub-arachnoid haemorrhage which resulted in the death of the victim."

Then there is the part you read about the alleviating provisions and so on, but you did not read that he has a minor record, having been convicted "of dangerous driving, common assault and possession of a narcotic, in 1980, all of which offences were related. It is clear the respondent at times abuses alcohol, which no doubt played a part in the commission of the offence.

"The offence was a very serious one. This is not a case where death unexpectedly and unforeseeably resulted from a comparatively trivial or minor assault. The assault made upon the victim was of a serious nature. A kick to the head is intrinsically dangerous"—I do not think one has to be a judge in a court to understand that—"and likely to cause serious injury, albeit this respondent did not anticipate that the kick would produce the serious consequences that it did."

If you go around kicking other people in the head, I do not think it is a question of whether you anticipate serious consequences or do not expect serious consequences. That is a senseless assault. What is getting at me in the responses you, the Attorney General, and the Solicitor General (Mr. G. W. Taylor) are making is you are suddenly talking about the Stephens case when very experienced people listened to the submissions that were made. I am not experienced and have never sat having to make decisions with respect to the appropriateness of sentence and so on.

You seem to be directing your attention to the National Parole Board, which, first of all, has its own jurisdiction. You were not directing your attention to calling upon the federal government to reconsider the whole of the jurisdiction of that parole board. I have never heard any word of that, except to clobber the National Parole Board. There has been a little step down in the way in which you have done it.

The sense and the caution that came through to me was that these men are judges sitting on the bench—and I am not trying to put them on any particular pedestal, but they did listen to those submissions that were made.

You can say that 21 months is significantly different from 36 months, but to me it is in the same ball park. Certainly it is in the correctional system and one may have erred on the side of leniency and the other one perhaps erred within the same ball park on the other part of the field. To me, 21 months and 36 months are not that far apart.

That is my feeling about it. As I say, I really would appreciate it if you would read the submissions of the crown and the submissions of the defence counsel in the case, because obviously it was an influence.

I think that the crown at the original trial agreed with the sentence. That is the interesting part about it.

Mr. Chairman: You make the submission about 21 months to 36 months, but when you talk to the taxpayers or the citizens out there, the perception was and still is that if you assault a woman, steal her purse and mug her, you get up to two years.

When you have a crime where someone's life is taken, even in these unusual circumstances, most people think they should be incarcerated and that putting them in a federal prison is a lot different from putting them in our system for two years less a day.

From my point of view, I think most people take it more seriously that he should have been incarcerated for the 36 months in a federal prison instead of in our system. It is my perception of what the public is thinking.

I am not looking at what the judges are saying, to just go on extremes. It just seems they take it and consider it to be a serious crime because it is a human life.

Mr. Breithaupt: You have to remember that the average citizen also expects that 36 months of that person's life will be spent in prison. The whole parole situation is not commonly and generally understood, such as when we talk

about immediate remission of the last third and these various other prospects. This is part of the general concern.

I share my colleague Mr. Renwick's view that the sentence in the first instance was inadequate.

Mr. Chairman: From my point of view, had the sentence in the first instance been 36 months or over two years, where he was in the federal system, I think it would have been more adequate in the eyes of the public.

Mr. Breithaupt: Possibly so, yes.

Mr. Renwick: It makes very interesting reading to read the original submissions of the crown, the original submissions of the defence, the decision of the trial judge, the decision of the Court of Appeal, the Attorney General's letter to the Solicitor General of Canada, and the Solicitor General's response. I would not want to use and I will not use—all I am going to say is that there are very serious problems that should now be readdressed on the question of sentencing.

12:50 p.m.

I must say when I again heard this morning about the mindless assault of a total stranger on Yonge Street in Toronto, for absolutely no reason, the young hockey player could just as well have been dead, and the sentence is three years, it raises questions in my mind.

Hon. Mr. Walker: The victim's sentence is much longer. He was here as an all-star hockey player and he will not now be able to play hockey.

Mr. Renwick: It is as if Joseph Muglia had lived, as if he had not died but had lived, and had suffered permanent damage.

As I say, I find it difficult. I do not understand the criticism of the parole system when, in fact-perhaps what I have been doing is trying to blame you for it.

As I say, I am not an expert in it. I do not know what the philosophy is. That is why I am hopeful, finally, that this commission on sentencing will make some sense out of the various aspects of the factors that have to be taken into account.

Mr. Breithaupt: Yes, that is surely the troubling part of it for me as well.

Hon. Mr. Walker: I might say that in my speech, which you heard given at the May 7 hearing of the victims' conference, I made a strong plea that the National Parole Board rules be changed and their guidelines tightened. I talked about earning early parole, and the like. That is on page 10 of the speech. I just refer you to that.

In concluding my comments on this area for the moment, I just have a very strong feeling that the work a judge does is substantially undermined by those who cause the sentence to be, in essence, a mockery, in my mind. One sixth of a sentence is not really going to achieve what the judge had in mind. That is an unfortunate thing.

He would have automatically spent more time in Ontario in incarceration at 21 months than he would have spent, or did spend, in the federal system when he has 36 months.

Mr. Renwick: He has 10 months in the federal system.

Hon. Mr. Walker: No, in fact, six.

Mr. Renwick: No. Stephens? Hon. Mr. Walker: Stephens.

Mr. Renwick: Kaplan categorically says, in his response, that he spent 10 months in the system. He said that the Attorney General was incorrect in his letter in that sense—that he was not out in seven months. He was out in 10.

Mr. Breithaupt: Is that including time served in custody before trial?

Hon. Mr. Walker: It might have.

Mr. Breithaupt: Perhaps that is the difference.

Hon. Mr. Walker: Just moving along to some of the last few points that were raised, I think we will try to answer some of Mr. Renwick's questions. Some I cannot answer here, such as the inspection of public institutions, chapter 412. I do not have an answer to that. I do not even have an answer on the Rideau centre.

On the polygraph—

Mr. Renwick: Are you responsible for that strange statute? I am just curious.

Hon. Mr. Walker: Apparently so.

Mr. Renwick: Next year we will get a full update on it.

Hon. Mr. Walker: Next year's estimates will be held down there. We will take you on a tour of it.

Mr. Chairman: Excuse me, minister. Maybe you will have to reply to all the questions. We have come to the end of our allotted time. I am sure that you will give him a response.

I think we should now call the vote.

Vote 1401 agreed to.

Mr. Chairman: Shall the estimates be reported to the House?

Mr. Renwick: Just a half-second, if I may, before we go.

Kaplan's statement on the Stephens thing is: "I have met with the parole board executive to review this case. Stephens has served in prison 10 months of his three-year sentence"—not seven months as you suggested.

"He is incarcerated every night. During the day he works in Meaford to support his family." That apparently is what he said. I am not taking Kaplan's view. I was just talking about the facts.

Hon. Mr. Walker: I wonder where he is incarcerated.

Mr. Renwick: Meaford.

Hon. Mr. Walker: There is nothing up in

Meaford. Owen Sound Jail, maybe.

Mr. Chairman: Thank you, Mr. Renwick. This completes consideration of the estimates of the Provincial Secretariat for Justice.

Mr. Renwick: Have we finished four hours?

Mr. Chairman: Yes. I thank the minister and his staff. I want to thank the members for being so dedicated. It was certainly interesting.

The Ministry of Correctional Services estimates will begin next Wednesday morning at 10 a.m.

The committee adjourned at 12:55 p.m.

CONTENTS

Friday, June 1, 1984

Opening statement: Mr. Renwick	J-111
Adjournment:	J-125

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)

Kolyn, A., Chairman (Lakeshore PC)

Renwick, J. A. (Riverdale NDP)

Walker, Hon. G. W., Provincial Secretary for Justice (London South PC)









Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Correctional Services

Fourth Session, 32nd Parliament Wednesday, June 6, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 6, 1984

The committee met at 10 a.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

Mr. Chairman: We are here today to review the estimates of the Ministry of Correctional Services, referred to our committee on May 17, 1984, by the Legislative Assembly. The time allotted for these estimates is eight hours.

Minister, do you have an opening statement?

Hon. Mr. Leluk: Yes, I do, Mr. Chairman, but before I get into the opening statement I would like to welcome the newly appointed Liberal critic for this ministry, the member for Grey (Mr. McKessock). I am looking forward to his contribution to and constructive input into these estimates.

The member for Riverdale (Mr. Renwick), who is our usual critic, is not with us today; he is over in France. Today is a very important, historic day, as we all know: it is the 40th anniversary of D-Day. The member for Welland-Thorold (Mr. Swart) is pinch-hitting for the member for Riverdale. I am pleased to see him here today and I am also looking forward to his contributions.

Mr. Swart: Mr. Chairman, I wonder if I could interrupt to ask if we have copies of the minister's statement.

Mr. Chairman: Oh, yes.

Mr. Swart: I would like to follow it. May I have one for Mr. Renwick, too; for when he comes back?

Mr. Chairman: The copies have been distributed. The minister may proceed at his convenience.

Hon. Mr. Leluk: Mr. Chairman, I am pleased to have this opportunity to make an opening statement on the management and operations of the Ministry of Correctional Services before proceeding with the debate on the votes of our 1984-85 estimates.

I would also like to introduce a number of senior officials of the ministry who are attending this presentation. We have with us to my left Dr. George Podrebarac, the deputy minister; Mr. John Duggan, the executive director of our institutions division; Mr. Donald Evans, executive director of the community programs divi-

sion; and Mr. Tom McCarron, the executive director for planning and support services, who was formerly the regional director of the western region of the ministry's institutions division.

In this opening statement I would like to give the honourable members an overview of the various challenges this ministry has faced in the past year, as well as the new and continuing programs of the ministry. In addition, I will be dealing at some length with the major issue facing the ministry in the year ahead, the implementation of the Young Offenders Act.

Before I describe some noteworthy events and programs which have been prominent during the fiscal year now under review, I would like to make reference to the current lawsuit with respect to high counts in some of our institutions.

As the members are no doubt aware, in January of this year the Ontario Public Service Employees Union and eight inmates commenced an application in Divisional Court. The application alleges that conditions of incarceration in the Toronto Jail and the Metropolitan Toronto West Detention Centre contravene the Charter of Rights and Freedoms in that inmates are subject to cruel and unusual treatment or punishment as a result of conditions in those two institutions.

I do not accept that allegation and, indeed, the ministry will be fighting it before the courts. As the members will understand, I am not prepared at this stage to comment directly on this lawsuit as this matter is yet to be considered by the courts.

In regard to the issue of high inmate population counts and the operation of our institutions, however, I will reiterate what I have previously said in the Legislature, in these estimates debates and in public. It is my firm belief that Ontario has an excellent correctional system which will stand comparison with that of any other jurisdiction on this continent, and as I have stated publicly on a number of occasions, I believe that we are the model of corrections in North America.

I must stress however, that this ministry is not in a position to control the intake of additional inmates into our system. We must accept them when police bring them to our institutions with proper warrants of commital.

At the same time, I would like to make it very clear that this ministry has taken positive action to deal with increases in inmate populations both by providing additional institutional bed spaces and by initiating a number of community-based alternatives to incarceration during the past 18 months.

Recent media reports have again focused attention on the problem of increased counts in our institutions as a result of a public institutions inspection panel report on the Toronto-area correctional institutions.

While these media stories concentrated on the panel's comments with regard to the need for additional capital funding to relieve the current problems, no coverage was given to the panel's findings about the quality of service provided to inmates in these institutions both by management and staff. I believe that in fairness to the members of this committee and ministry staff I must take this opportunity to review some of the panel's findings.

In most areas of the report, the panel is supportive of both staff and ongoing operations. Concerning the Metropolitan Toronto West Detention Centre, I quote from the report: "Because of the administration's strong, thorough role at the centre and, because of the number and variety of resources allocated to inmate programs, the panel feels that the Toronto west detention centre carries out its mandate of protecting the inmates' mental and physical wellbeing, and ensures that those incarcerated at the Metropolitan Toronto West Detention Centre are treated with basic dignity."

Regarding correctional officers at the Metropolitan Toronto East Detention Centre, the panel noted, "The correctional officers at the centre seem to be carrying out their responsibilities with professionalism and pride (which indeed was the case at all centres visited)."

Regarding the performance of the administration at the Metropolitan Toronto East Detention Centre, the panel said: "The administration is carrying out its mandate as a maximum security facility in a thorough, responsible manner...The facility is well-organized, well-maintained and in good condition throughout the premises. Further, the strong emphasis placed on volunteers/counselling programs in which there is participation by various levels of staff all indicate to the panel that the centre is working to achieve a mandate that helps the inmates and not merely holds them in custody."

Regarding the classification process at the Toronto Jail, the panel noted that "in balancing all of the complex needs of a large, varied and volatile population, the staff met their mandate of

protecting the safety of the people in their custody."

Regarding the services at Mimico Correctional Centre, I again quote from the report: "The large, bright, airy living quarters which are beautifully maintained, the spacious grounds surrounding the centre and the wide variety of work programs both in and outside the centre are well suited to Mimico's function as a minimum/medium security facility for inmates serving under two years. The panel are in agreement that these advantages, combined with very good management of the centre's functions and resources by the administration and staff, fulfil the centre's mandate as a correctional centre."

10:10 a.m.

In addition to the many renovations and additions to facilities which my ministry is currently undertaking, the panel made several recommendations which they feel will improve the operation of each institution. My administrative staff will be addressing each one of these recommendations and taking appropriate action.

I would like, however, to address the issue of capital funding, which the newspaper articles suggested is inadequate. At the Metropolitan Toronto West Detention Centre, the government recently expended \$85,000 to build an extra living unit which will increase inmate accommodation. Through the government's Board of Industrial Leadership and Development, the BILD program funding over the next few years, \$6.5 million will be spent to construct a new 192-bed female remand centre on the property of the Metropolitan Toronto West Detention Centre.

At the Metropolitan Toronto East Detention Centre, a project to expand the visiting facilities is presently under way at a cost of \$240,000. At the Toronto Jail, work projects totalling over \$700,000 are taking place in this fiscal year.

As you can see, these figures indicate that the government is willing to expend the necessary funds to ensure that the Toronto correctional institutions are able to fulfil their mandate.

I have reviewed the comments of the panel in some detail because I believe they provide a more balanced and accurate picture of the conditions in this ministry's institutions than did recent media reports on this issue.

Now I would like to describe for members of the committee the situation the ministry has faced with respect to our overall client population.

Throughout the North American continent, and indeed throughout most of the world, prisons seem to be experiencing population difficulties.

Almost every jurisdiction we have come into contact with has the problem of high counts for some part, if not all, of the year. The demands on correctional facilities have changed over the years and the need for heavy financial expenditure on modern correctional facilities cannot easily keep pace with the changing demands made on these facilities.

Although we have not faced the tremendous problems experienced in some other jurisdictions, we did have rapid growth in our prison population over the past few years. I am pleased to be able to report, however, that this period of rapid growth seems to have declined somewhat this year. The annual three to eight per cent increases gradually declined so that by July 1983 our average count was actually just below the count of July 1982. The counts for the rest of the year were below those of the previous year. Overall, we had approximately a one per cent decline. In the Toronto area that figure was somewhat more significant at 2.1 per cent, but we should not be lulled into a false sense of security.

The general levelling off was not totally unexpected. A wide variety of factors which are very difficult to predict on their own have influenced the size of our prison population. We have spent many hours collecting and analysing statistics and their implications.

We know that persons between the ages of 16 and 24 have a higher rate of incarceration than those who are older. Thus, the baby boom was a big factor in our inmate population growth.

Over the last few years, as those in the baby boom have aged, the numbers in this crime-prone age group have been on the rise. This has accounted for much, but not all, of the growth in our inmate population. We are entering a period of relative stability in the numbers in this age group. Our expectation for the next few years is that there will be some growth in the size of the institutional population, but it will be slower than we have experienced in recent years.

As you are all aware, we have constantly monitored trends and increased our use of community facilities and programs to offset some of the growth we have experienced. As I have stated on numerous occasions, we always have regard for the security of the public. We classify and assess our inmates. We cannot and do not transfer those whom we consider a threat to public safety into community programs, so there is a limit to how much we can do in this regard.

We have continued to experience growth among the numbers of clients who are dealt with in the community, where average counts were about four per cent higher during 1983-84 than during 1982-83. As with the institutional population, this constitutes slower growth than in previous years.

There have been some notable shifts within the total probation case load. There continues to be an increase in the number of probationers whose probation order includes the requirement that they complete a certain number of hours of community service. The average number of probationers with a community service order was almost 30 per cent higher than during the previous year. They now represent approximately 15 per cent of the total probation case load.

Another area experiencing rapid growth is parole. Average parole counts increased by almost 20 per cent between 1982-83 and 1983-84. Much of this growth was the result of considering and granting parole to more inmates with relatively short sentences.

In total, during the 1983-84 fiscal year the average number of clients being served by my ministry was slightly over 45,000 daily. Those on probation constitute by far the largest portion of the ministry's client load, averaging over 37,000, or about 82 per cent of the total. Those who have been released on parole add about another 1,600 to the daily case load being supervised in the community. Together these groups account for about 14 per cent of the ministry's budget.

Institutions account for 78 per cent of our total budget despite the small proportion of clients involved. Just over 6,700, or about 14 per cent of the ministry's clients, were individuals who were incarcerated in one of our institutions. About one in four was held on remand in a jail or detention centre awaiting the disposition of his case.

Interestingly, the numbers on remand fluctuated considerably during the fiscal year. During the summer of 1983 remand counts were unusually low, about 12 per cent below the 1982 levels. By the spring of 1984, however, remand counts were on the rise again. March 1984 figures were four per cent higher than those for March 1983. No obvious explanation for this pattern presents itself, but we are continuing to monitor the situation.

We are also participating in a national study of remanded inmates in co-operation with other provincial correctional authorities and the Canadian Centre for Justice Statistics. We hope that viewing the remand issue from a national perspective will help us to understand our own situation better.

I would like to deal with accommodation plans now. It is important to note that the slowdown in growth in institutional counts does not mean that the problems we have been experiencing recently are suddenly over. A number of our institutions were over what we consider to be a preferable operating count for much of the past fiscal year. This was particularly true in the central region of the province, although this problem was also experienced in several eastern Ontario jails as well as in isolated cases in the western and northern regions.

As I mentioned at the beginning of my remarks, the ministry has responded positively to this situation by bringing on stream a number of additional bed spaces in our institutions throughout the province. In last year's estimates I described how we added another 250 bed spaces to the system by opening up or reallocating space at the Mimico Correctional Centre in Etobicoke, the Hamilton-Wentworth Detention Centre and the Guelph Correctional Centre during the preceding fiscal year.

Through similar efforts during the past year we have been able to create an additional 218 bed spaces in a number of institutions across the province. These included the addition of 22 beds at the Ontario Correctional Institute in Brampton, 32 beds at the Metropolitan Toronto West Detention Centre, 40 beds each at the Metropolitan Toronto east and the Hamilton-Wentworth detention centres and 36 beds at the Quinte Detention Centre at Napanee. As well, a number of beds were added to the jails in Barrie, Lindsay, Peterborough and the Wellington Detention Centre in Guelph.

10:20 a.m.

Plans are well under way to begin construction of additional facilities at 10 of our institutions later this year, and these will add more than 500 bed spaces to the system. These 10 projects, as I told members last year, are part of the job creation initiative announced by the former provincial Treasurer, the member for Muskoka (Mr. F. S. Miller), as part of his May 1983 budget. These projects were included in my ministry's long- and short-term accommodations plans.

We are extremely pleased to be involved in these endeavours, which are contributing in two distinct and important ways. The need for appropriate bed space by my ministry is a story you have heard before; and working towards a solution to this problem, while providing em-

ployment to the areas of the provinces where it is needed, is a rare opportunity indeed. I described these projects to you last year, but I would like to bring you up to date on the progress we have been able to make in a relatively short period of time.

Working drawings are almost complete for the new female unit, to be located on the grounds of the Metropolitan Toronto West Detention Centre. Construction is due to begin in August of this year. This unit will have capacity for up to 192 female offenders and will replace the 100-bed female unit within the detention centre which operated above capacity virtually all of the last fiscal year. The conversion of these beds for male occupancy will provide welcome relief to the occupancy problems in the Metropolitan Toronto area.

One of the projects already under construction is the conversion to dormitories of unused space at the Maplehurst Correctional Centre in Milton. The 79 beds this project will create should be available by October of this year. Additional medium security correctional centre beds are a particularly important addition for the ministry. Often in the past those waiting for this type of accommodation contributed significantly to the high counts in jails and detention centres.

The project at the Rideau Correctional Centre in Burritt's Rapids near Ottawa is currently in the design phase, with construction tentatively scheduled to start in October of this year. Sixty-four new dormitory beds and 26 cells for protective custody and close confinement will be added to this institution's capacity. The overall security of the institution is also being upgraded.

Scheduled also to begin construction in October is the upgrading of the Sault Ste. Marie Jail. This project will result in an additional 49 beds and improvements to a number of the support service areas. In the north also, we will be increasing capacity at the Kenora Jail by 30 beds and at the Sudbury Jail by 40 beds. Working drawings are being prepared for the project at the Brantford Jail, where accommodation for 32 is being added. Again, the tentative date for the construction to begin is October of this year. Finally, we are adding 10 beds each to the jails in Brockville, Pembroke, and Cornwall.

I would like to remind you that a number of these projects are making use of the ministry's prefabricated modular units, and I would like to point out that kits are being handed out, or you have them on your desk, in which you will find further information on these units. As you will recall, a prototype unit was opened at the Peterborough Jail last September. We are thus far

very pleased with the unit and are optimistic about making much more extensive and broader use of it in the future. Work is currently proceeding on units which will be added to five institutions in various locations across this province.

While this represents the extent of our present production capacity, we anticipate marketing the unit to other correctional jurisdictions in Canada once our own needs are met. This possibility has already been discussed with officials from several jurisdictions, and considerable interest has been expressed. The units can be adapted to suit varying needs and are a relatively inexpensive way to expand existing facilities.

I would like to turn to some initiatives taken by the ministry in response to both the changing needs and the nature of our inmate population. Honourable members may have read recent media reports of the increased numbers of fine defaulters being incarcerated, as well as references to our institutions as "debtors' prisons." While I must object to suggestions that we are operating debtors' prisons in this province, I will concede that the problem of incarcerating fine defaulters is an issue worth addressing.

It is important to stress that the ministry initiated two pilot fine-option programs in Hamilton and Niagara last year that offer fine defaulters the opportunity to work off their fines through volunteer service in the community. So far, we have been encouraged by the progress of these pilot projects, and I would like to share with the members of the committee the results of the first 10 months of operation, from May 1, 1983, to February 29 of this year.

Of the 320 fine defaulters who participated in the program, 261 either completed their full number of hours of community work or fulfilled their obligations through a combination of work and payment of fines. Only 59 persons participated unsuccessfully.

More than 8,272 hours of community service work were completed by the participants and the cost of some 2,600 days of incarceration was avoided.

Ministry officials are pleased with the initial success of this alternative to incarceration and we will be fully evaluating the pilot project to decide whether this program should be extended to other areas of Ontario.

I would like to talk about native services. The ministry is continually striving to meet the special needs of the native offender in both the urban and remote locations of Ontario.

In remote locations, counselling services for native probationers are provided by native probation aides who are residents of reserves or settlements. Working under the supervision of a probation officer, they provide counselling and support for native offenders within their own cultural environment. In urban centres native workers actively assist incarcerated native offenders with their reintegration into the community. These programs are both consistent with the ministry policy of providing services to native offenders by native people wherever possible.

We have a very close relationship with the community resource centre operated for the ministry by the Ontario Native Women's Association in Thunder Bay. The ministry is very proud of this program provided for native women by native women.

A proposed initiative with which we are associated is the Anicinabe wilderness work camp for native offenders. My ministry is currently working with the Ontario Native Council on Justice to establish in Kenora a wilderness work camp for native persons convicted of liquor offences or fine default. It is my hope to make an announcement in this regard in the near future.

I would like to now turn to drinking and driving. Persons who insist upon driving while impaired by alcohol continue to be a major concern for many citizen groups and for the Ontario government as a whole. The extent of this concern is evidenced by the establishment of the Premier's interministry task force on drinking and driving, of which I was privileged to be a member. I am pleased to be able to state that officials from my ministry have played a significant role in the work of that important group.

I want to tell you about some of the initiatives my ministry has taken regarding drinking and driving offenders. This is by no means a new problem, and my ministry has actively developed a wide range of programs over the years. For example, there are at present at least six programs for drinking and driving offenders operating in institutions and 30 programs for various types of substance abuse operated by probation and parole officers across Ontario.

One thing that is clear from our own experiences and from research reported from other sources such as the Addiction Research Foundation is that there is no single, simple answer to this problem. This is true for just about any problem facing corrections. The best results seem to come from programs that combine a

number of components including treatment, education and deterrence.

Last year we started funding a pilot project at Madeira House community resource centre in Etobicoke. This centre provides an intensive 28-day program for inmates of the Mimico Correctional Centre. It covers a number of treatment modalities including driving awareness, alcohol awareness, self-value exploration and group dynamics involving those people important to the impaired drivers. Support services following release from the program assist in maintaining and reinforcing positive behaviour.

10:30 a.m.

In providing programs of this nature, we are constantly having to strike a balance between the needs of the offender for meaningful treatment and the risk of appearing to be too lenient with a group of offenders that is increasingly seen by the public as deserving more stringent punishment. That is why I find it so significant that Against Drunk Drivers, a group made up of families of victims of impaired drivers, has become involved in the program.

Upon reviewing the Madeira House program, this association was sufficiently impressed that it agreed to take part in weekly group sessions with the offenders. This clearly indicates that public concern can lead to constructive solutions and not just get-tough policies, which may not always be the best answer.

This program is being evaluated by my staff to ensure that our initial positive impressions are warranted. With this combination of program development and evaluation, we can work towards establishing an effective array of programs aimed at combating the drinking-driving problem.

I would now like to turn to new classification procedures. In concert with the ministry's emphasis on community corrections and its commitment to the least restrictive custody model, a committee was established last summer to review the process by which inmates are assigned to various types of programs and facilities. One of its recommendations was to expand the classification decision-making authority at the local level.

This recommendation was implemented on January 9, 1984, when decision-making authority was expanded at the local level to include all inmates sentenced to less than four months. The results of the new procedures are currently being monitored to see whether a greater number of inmates are being placed in community residen-

tial facilities. Of course, not all short-term inmates meet the criteria for placement in a community setting, but our experience indicates that a majority of the short-term inmates do.

This move is also expected to increase the programming opportunities for long-term inmates. Institutional resources, which at times were spread thin in attempting to assist short-termers, can be concentrated to a greater degree on the programs for the longer-term inmates.

Other initiatives have been undertaken to ensure that inmates are placed in facilities consistent with their security requirements and programming needs. Our research section is currently involved in the development of a standardized classification instrument which will ensure consistency in decision-making throughout the province. Plans have been made to increase accessibility of information to classification decision-makers in order to optimize the process.

Temporary absence is an effective tool in our rehabilitative process. I am very aware that in recent weeks, the federal correctional service has come under severe criticism with respect to some of its temporary absence or day parole decisions. I must emphasize that there is considerable difference between federal correctional programs and those of this ministry.

As the members well know, there is a wide divergence in the type of inmate they house, excepting, of course, our remand prisoners. All prisoners initially are housed in our jails. It is those who have committed the more serious, the violent crimes, who eventually go to the federal system. Correctional Service Canada takes everyone serving a sentence of two years and over. It appears that they have established guidelines with respect to temporary absence that are vastly different from our own.

In our system, the first essential question that is asked before anyone gets a temporary absence pass is, "Is this person likely to be a threat to the community?" We recognize our responsibility to protect the community and no matter how long offenders have served, what their conduct has been, how heart-rending their appeal might be, if we believe that they pose a threat to the community we do not permit them to be given a temporary absence pass.

It is our normal practice to make community checks prior to issuing a temporary absence pass. We find out the attitude of the sentencing judge, the police and, in some instances, the crown prosecutor. We investigate where the inmate will

be spending his pass and what his family's reaction to it is.

A temporary absence pass serves as a successful vehicle for the offender returning to society, and allows for a controlled means of reintegration following a prescribed and authorized plan. The success rate of our temporary absence program is extraordinarily high, with more than 95 per cent of inmates completing their temporary absences successfully.

Community resource centres: Our community resource centre program, for which participants must first have been accepted for a temporary absence pass, has also proved effective. Year by year we have expanded and developed our community resource centre program, which has increased in weekly usage from 200 in 1977, to 300 in 1979, to 400 in 1982 and, for the first time ever, to 600 offenders in community residences during the week of March 5 to 11 of this year.

This year marks the 10th anniversary of the establishment of this particular program, and in that time the numbers of reported incidents that have caused serious concern have been less than the fingers on one hand. When one contrasts this with the positive effect the program has in helping to rehabilitate offenders, there is no question that this is a most successful and worthwhile program.

One of the principles guiding our operation continues to be that correctional programs should apply only that degree of control which is necessary to protect society. The high level of security offered by our institutions is not required for all those sentenced to incarceration.

At the same time, more support or control may be necessary than can be offered through community supervision. That is where our community resource centres come in. They allow inmates to serve their sentences in a residential setting from which they are allowed to maintain or seek employment, engage in some sort of education or take part in some other productive activity. Some individuals who have been released on bail are also housed in community resource centres.

Parole: The operations of the National Parole Board and those of the Ontario Board of Parole should not be confused, as they are quite different and separate. In 1978 indefinite sentencing was abolished, with the result that inmates serving sentences of two years or more came under the jurisdiction of the federal correctional system and the National Parole Board, while inmates serving two years less a day or less became the responsibility of the

provincial correctional system and the Ontario Board of Parole.

The Ontaro parole system has not experienced the problems faced by the national parole system, primarily because it does not have to consider parole for inmates serving long sentences for dangerous and violent crimes; thus, we are not dealing with the same type of inmate.

In recent years we have had a very steady growth in the numbers of inmates paroled. For instance, there was an almost 20 per cent increase between 1982-83 and 1983-84. Much of this growth was the result of considering and granting parole to more inmates with relatively short sentences.

Parole in Ontario goes a long way back. In fact, in the 1920s the report of the parole commissioner showed a very purposeful use of this correctional tool. It makes good sense that when an inmate is released from prison he is under the supervision of a probation and parole officer and is able to receive the support he needs to establish himself in the community as a law-abiding citizen.

Members may be interested to know that 90 per cent of the members of the board are community members who bring the community's view to the board's decision-making. You can discount the reports you read about inmates leaving prison who just cannot wait to get back into trouble and back into prison; it simply is not true. Without support, certainly, people can find it very difficult to re-establish themselves in the community, but the bulk of our clients not only want to stay out of conflict with the law after their release or at the end of their parole terms but succeed in doing so.

Community service orders: The ministry is continuing to operate many programs that have proved over time to be successful. As I mentioned previously, the number of offenders ordered to provide community service continues to grow. In 1983, 13,400 probationers had a community service order conditioned to their probation orders, an increase of 50 per cent over the past two years. Collectively these offenders performed 499,000 hours of community service.

10:40 a.m.

This is the most extensively contracted program area and is a good example of community involvement in the correctional process. Over 60 contracts are in place with a variety of agencies throughout the province. These include not only the agencies which have traditionally expressed their interest in corrections, such as the Salvation Army, the John Howard, Elizabeth Fry and St.

Leonard's societies, but also include several service clubs such as Lions and Rotary, native bands and community corrections committees.

The community service order provides substantial benefits to the community at large, such as senior citizens' homes, centres for the developmentally handicapped, social service agencies, churches, local community works departments and youth centres. Our research also shows it has a very positive impact on the offender, some of whom have continued to serve the community after completion of their service order. In fact, approximately 20 per cent do more work than ordered by the courts.

Because of the confusion in the last few months over the bail program, I feel it is important to review the history of the project and to clarify the current situation.

As you may recall, this program has two components—bail verification and bail supervision. Bail verification is the confirmation of the information which is considered relevant to the bail decision. It is intended to facilitate faster and better-informed decisions with regard to judicial interim release. Bail supervision is community-based supervision of an accused, provided as an alternative to pre-trial detention or financial surety.

The initial pilot projects were funded jointly by the Solicitor General of Canada's consultation centre and my ministry's probation and parole branch. Subsequent expansion to the current 12 projects was funded solely by the probation and parole branch through redeployment of funds which had been designated to meet the escalating work load of the branch. In successive years, the combination of financial constraints, continued growth in the demand for post-disposition, community-based programs, and the inability of the bail program to demonstrate that it was providing a clear alternative to pre-trial incarceration, made it necessary to re-examine program priorities.

While we recognize that there may be some value in the provision of pre-trial services such as bail verification and supervision within the provincial justice system, the costs to my ministry were considered to be disproportionate to the benefits. This ministry concluded, therefore, that it could no longer provide the sole fiscal support for this program within existing appropriations and reluctantly decided not to renew any contracts for this service. The effective termination date for these contracts would have been March 31 of this year.

At its meeting of February 9, 1984, the cabinet committee on justice reviewed the decision to terminate the bail verification and supervision program. The individual Justice ministries were asked to consider, through a formal review process, whether bail verification and supervision services were necessary and, if so, what form the process should assume and who should provide the necessary funding.

I am pleased to announce that funding will be continued for the bail verification and supervision program until March 31 of next year. Close to \$900,000 will be provided to fund 12 bail projects across the province. The cities include Barrie, Brampton, Brantford, Hamilton, Kitchener, Ottawa, Sault Ste. Marie, St. Catharines, Sudbury, Thunder Bay, Toronto and Windsor. I must stress that the funding has been extended to avoid interruption of service while a review committee conducts the study of the bail program.

Along with looking at the historical development of the bail program in the province, the committee will determine the extent of the need for a bail program and who will provide services and funding in the future, if necessary. The agencies providing services to date will be included in the review process. The committee will present their final report to me in early December. Currently, we are negotiating for a person to chair the committee and I look forward to announcing the decision within the next few weeks

While the program will continue to be administered by the Ministry of Correctional Services until the end of March 1985, the actual expenditure will be shared by the ministries of Correctional Services, Attorney General, Solicitor General and Treasury and Economics.

In discussing with you the initiatives and developments that are currently taking place in the ministry, I would like to commend to you the work of the Minister's Advisory Council for the Treatment of the Offender, or MACTO, as it is commonly known. This council draws its members from such areas as the legal and educational professions, community agencies, police and churches. Its mandate is to advise the minister on the implications of current correctional philosophy and on all aspects of ministry programs.

I consider MACTO to be a very important link to the community and I value its advice and criticism on matters of policy. One example of MACTO's activity is the recently completed Education Review. The title belies the scope of the implications of this report. Its impact will be

felt in all aspects of ministry programs. The report marked a major reaffirmation of the ministry's rehabilitative efforts.

As you are aware, this ministry never succumbed to the gloom-and-doom mentality surrounding rehabilitation programs that has been evident in some other jurisdictions. My officials have never ceased to seek and to develop new program concepts. Because of the broad experience of the individual members of MACTO, the council plays an important role in maintaining the impetus for this thrust.

The Educational Review was a major effort in this direction. The impact of all programs was examined and a new approach was recommended, an approach that would integrate all programs under one concept. This integrated approach is based on the seemingly simple idea that rehabilitation is a learning process. The offender must learn to be a responsible citizen.

In the words of the council's report, "The ministry must conceive of itself as an educational agency in the broadest sense." Within this context, all ministry programs, regardless of the venue in which they are offered, must be seen as learning experiences for the offender. Programs of any kind must have a basic educational purpose.

To achieve this end, an extensive effort will be required to rethink old programs and to develop new approaches to the rehabilitation of the offender. I shall touch on some efforts being made in this regard later on. The total implementation of this new thrust will not be achieved overnight. It will be a slow and laborious process, but I strongly believe we have made a sound start and we are heading in the right direction.

Another program about which we are particularly enthusiastic involves training in the area of cognitive functioning, or the reasoning ability of offenders. There has been considerable research which has pointed to deficits in these skills among offenders as one possible explanation of their criminal activity. Much of what we consider to be normal or acceptable behaviour is the result of skills we learn as we mature, the ability to assess social situations, weigh alternative actions and make suitable choices. For many offenders, it may be that the lack of these learned skills leads to their problems.

This theory is given further credence when one examines the available research on the vast array of correctional programs that have been tried. Almost invariably, these programs that have been able to demonstrate effectiveness in re-

ducing recidivism have involved a component aimed at developing the kind of cognitive functioning I am talking about.

Over the last two years, researchers have been carrying out developmental work in this area. An intensive training package has been designed, borrowing components from a variety of disciplines. In addition, a battery of psychological tests measuring different aspects of cognitive functioning has been selected. We are now in a position to put our theory to the test in a program for probationers being implemented in the Oshawa-Pickering area.

Through this research, we hope to ascertain the extent to which this offender group does have deficits in cognitive functioning, the impact of our training on these skills and, most importantly, whether those receiving such training are less likely to return to crime. While caution should always be exercised in a new program such as this, we are optimistic this will represent an effective approach for at least some of our clients. If our hopes are realized, the program should have application for those in our institutions as well as for probationers.

10:50 a.m.

I spoke to you last year about our pilot projects involving microcomputer-assisted education. This is a program I feel is illustrative of our attempt to keep up to date with rapid technological changes while maintaining our concern for the needs of our clients.

I am happy to report that to date, the reaction to the system we are using has exceeded our expectations. As you may recall, the system we chose was the Plato system developed by Control Data Corp.

Plato is a patented computer-based educational system with a wide range of software packages. The system was chosen over other available courseware largely because it has been used successfully in both correctional and educational facilities throughout the United States and Canada.

So far, the Plato system seems to be doing the job expected of it. Obviously, we intend to make a formal evaluation. Students and instructors are very supportive of and interested in the system and many are confident it is producing results that would otherwise have been impossible.

It is our intention to extend its use from the Millbrook Correctional Centre near Peterborough and the two institutions in Brampton—the Ontario Correctional Institute and the Vanier Centre for Women—to the Monteith Correctional Centre in northern Ontario. Its further extension

will be dictated by results and financial resources.

Although the ministry has taken many progressive steps in educational programming over the years, the appointment of Dr. George Podrebarac as deputy minister has been particularly helpful to initiatives in this area. With his educational background and experience he has been able to guide the emphasis previously developed into more purposeful and practical applications.

As I said, we believe in looking at every aspect of our programming for potential improvement and are continually searching for new ways to involve the people of Ontario in the activities of the ministry. I firmly believe that for a justice system to be accepted, it must receive the active support of the public.

In the past, I have spoken often and at great length about the importance of volunteers to the ministry. The contribution of the thousands of individuals who give freely of their time and talents to improve the conditions of offenders cannot be valued in terms of dollars and cents. Volunteers are involved in just about every aspect of this ministry's operations.

Indeed, many of our community programs are enhanced by the participation of volunteers. Many boards of justice committees and some community agencies are made up of volunteers. These generous people have provided the impetus for several of our community programs. Their continued dedication ensures the viability of our programs.

Volunteers in this ministry go beyond providing extra hands to do the traditional work of corrections. They provide a necessary link with the community, for they are the community. In our institutions and our field offices, the participation of volunteers ensures the offender does not become the forgotten person. Moreover, the strong pro-social, anti-criminal role model provided by volunteers for offenders can be an important rehabilitative tool.

I am very proud of the ability of our volunteers. They have a high level of dedication and research consistently shows volunteers are very effective in helping offenders cope with their problems. Of course, we carefully screen and train our volunteers, and the variety of their involvement can be seen from the subjects covered in the volunteer conferences, one of which will be held at York University from June 17 to June 21 this year. Its theme or title is Impact '84 and any member of this committee who

would like to attend can get details from our office.

The bicentennial park project upon which we are just embarking in Guelph is another good example of the emphasis we place on having close and amicable ties to the communities in which we work. I am pleased to announce that in the spirit of our provincial bicentennial celebrations, the Ministry of Correctional Services is providing 20 acres of land to be developed into park land and sports facilities for the citizens of the city of Guelph. The project is a co-operative effort by my ministry, the city of Guelph and the Guelph Jaycees. Two softball diamonds, a baseball diamond and two soccer-football fields are expected to be opened to the public this summer.

The proposed site of this park land is the northwest corner of the grounds of the Guelph Correctional Centre. This land is not being used by the correctional centre for programs or activities, but has been and is currently being used by the local citizens of Guelph as park land for fishing, picnics and sports activities. It will be leased to the city for a nominal fee for five years for the specific purpose of developing the sports facilities and park.

This bicentennial park will be developed at no cost to the ministry or the provincial government. The Guelph Jaycees have offered to contribute \$5,000 to help establish the facilities, and the park land will be developed and maintained by the recreation and parks department of the city of Guelph. For its part the Guelph Correctional Centre will provide inmates to work on the project.

I am sure I can speak for my staff and for the inmates as well when I express my enthusiasm at being involved in such a worthwhile endeavour as providing Guelph and its surrounding community with a greatly improved park area for their recreational enjoyment.

I would now like to give the members of the committee a very brief description of the recently approved reorganization of the Ministry of Correctional Services. A number of significant organizational changes have been made, each of which is aimed at improved program delivery, policy development and management processes.

Foremost among these improvements is the integration of the institutions and community programs division in a structure that will satisfy the ministry's stated goals and principles. Integration will provide for the following benefits: maximum response to local community needs, taking into account differences in regional

character; more efficient and effective delivery of services; information flow and sharing of information; a common, clearly enunciated corrections philosophy; more linkage in the ministry's management process; increased accountability, which will act as a control mechanism; and increased job variety and scope, which will strengthen the ministry's reliance on management by results, program review and performance appraisal.

Some areas of the reorganization will be implemented immediately. The next three to four months, however, will involve further delineation and clarification of roles, identification of training and development needs and general follow-up and communications.

I would like to take this opportunity to commend and thank Dr. Podrebarac and our senior staff for the excellent job they have done in planning this reorganization during the past number of months. I not only fully support the restructuring, but I am also confident that our staff, who are well qualified and dedicated, will do their usual excellent job in implementing these changes.

Human rights policy and training: While I am on the subject of the ministry's internal policies and procedures, I would like to discuss the ministry's current activities in the areas of human rights and affirmative action.

Because of the nature of the responsibilities of my ministry, human rights issues are of particular concern. We are entrusted with a high degree of control over and responsibility for our clients. With this comes an intensified requirement to respect the dignity of those in our care.

In response to these circumstances the ministry took the initiative and the positive step of issuing a human rights policy statement in the early part of 1983—the first ministry, I might add, to do so. Following up on this, staff trainers from the diverse program areas within the ministry were brought together to develop a human rights training package. Three premises evolved in the early stages of this process.

First, the design was to be flexible enough to be applied ministry-wide.

Second, in order for the training to be relevant to as many participants as possible, it must nurture a multicultural perspective. Collectively the employees of the ministry have the ability to communicate in almost 60 different languages, and more than 1,000 staff members can speak two or more languages.

11 a.m.

Third, a human rights training package that embraces a global perspective is in keeping with Ontario's multicultural policy. This approach has been reinforced by representatives from the ethnic relations squad of the Metropolitan Toronto Police, the institutions division, the probation and parole services, the Cross Cultural Communication Centre, the Ontario Human Rights Commission and the citizenship development branch of the Ministry of Citizenship and Culture, all of whom had input into the form and content of this training package.

The overall thrust of the human rights training package is to enhance awareness, stimulate thought and encourage action in the area of human rights and human relations for all people within our correctional community. This theme is realized through the following course objectives: to provide a clear understanding of ministry policy, philosophy and commitment to human rights; to develop problem-solving strategies related to human rights issues within the ministry; to create an understanding of the terminology and definitions specific to human rights; to enhance knowledge of immigration evolution and its impact on the Human Rights Code in Ontario; to demonstrate the benefits of an environment free of harassments; and to provide a resource network which deals with human rights issues.

The avenues to these objectives include pre-course written assignments, case study review, audiovisual presentations and discussion of relevant acts and policies. The effectiveness of any course or training program is very much dependent upon the commitment of the ministry and its staff to that program. To this end, the ministry has demonstrated its position strongly with the policy statement.

Moving from philosophy to practice, all staff will gain hands-on experience in dealing with discrimination and harassment as they pertain to race, ancestry, sex, age or handicap, by focusing on case studies in a group problem-solving structure. The opportunity for group interaction and group discussion will be promoted throughout the two-day course. Through this effort, one becomes more aware of the perceptions and conceptions one has about oneself and others.

The course also has a follow-up component. The intent here is to encourage a learning experience that goes well beyond the two days of the workshop. It is also a way to monitor the effectiveness of the course. The ultimate aim of this course is to nurture the idea that human rights

are simply a logical extension of people relating to one another in sensitive and accepting ways.

In regard to affirmative action, I am very proud to say that the Ministry of Correctional Services is a leader in Canada in the provision of equal opportunities for women to work as correctional officers. Currently, we employ 370 female correctional officers, 235 of whom work with male inmates. The 370 female officers represent approximately 13 per cent of the total of 2,891 officers we employ.

Ontario's affirmative action program has been highly successful. In 1975, we had only 16 female correctional officers supervising male inmates and today, as I have just mentioned, we have 235.

Female correctional officers are expected to carry out the same duties as are carried out by male correctional officers. This means they may, in the course of their duties, observe male inmates in various degrees of undress while making their rounds. This ministry expects all staff, both male and female, to show consideration and sensitivity towards inmates in the matter of privacy. We expect staff will conduct themselves in a professional manner, and I am pleased to say they are doing so.

At the entry level for probation and parole officers, approximately 50 per cent are female.

In regard to the policy on assignment of male and female correctional officers, as I have already stated, this ministry has been a leader in providing for the full integration of both male and female correctional officers in the operation of its institutions. This year we have proceeded one step further in ensuring equal employment opportunities for all employees with the adoption of a formal policy on the assignment of correctional officers where they are required to supervise offenders of the opposite sex.

A committee comprising senior institutional managers and representatives of the affirmative action program, legal services and the Ontario Public Service Employees Union, examined this issue in depth and consulted with human rights specialists in other correctional jurisdictions. This study led to the development of the first comprehensive policy on this important matter in any correctional jurisdiction in Canada.

This policy prohibits sex discrimination in hiring and in the determination of post and duty assignments for correctional officers, except where gender is a bona fide qualification based on respect for inmate privacy. Its purpose is to achieve an appropriate balance between the right of correctional officers to equal employment

opportunities and provisions which ensure that the personal dignity and modesty of inmates are maintained.

In summary, we believe that the matter of supervision of inmates of the opposite sex has been handled in a very professional manner by our staff. We are also very pleased to be leaders in the field of employing women in nontraditional jobs. This is one measure of our strong commitment to affirmative action and our recognition of the high value we place on women in the correctional work force.

Young Offenders Act: The one single occurrence that will probably have the most impact on my ministry during the current fiscal year is the planning for implementation of the Young Offenders Act. As you are aware, the act came into effect on April 2 of this year.

This year it applies only to those under the age of 16 who had previously fallen under the jurisdiction of the Juvenile Delinquents Act. On April 1 of next year its sphere of jurisdiction will be expanded to include all offenders under the age of 18, making the age of adult responsibility uniform across Canada.

The impact on my ministry will not be in terms of whom we care for, but how we handle them. As announced by my colleague the Provincial Secretary for Justice (Mr. Walker), the government has decided to retain the current distribution of responsibilities; that is, the Ministry of Community and Social Services will continue to deliver correctional programs to those under the age of 16, while this ministry will maintain responsibility for those 16 and over.

The division of responsibility will not be totally rigid, of course. Where it will result in better service to the clients, there will be co-operation between the ministries and exchanges of services.

There are many uncertainties in this province and other provinces over the impact of this legislation on juvenile correctional systems. The strategy adopted in this province will allow us to utilize fully, in the treatment of young offenders, two excellent systems that are basically similar. When the impact of the act has been understood and evaluated, the government will be in a position to consider various organizational alternatives.

While the new legislation will not come into effect until next fiscal year, I think it is worth while reviewing its expected impact on my ministry.

At the current time, there are approximately 700 16- and 17-year-olds in our institutions,

about one quarter of whom are there on remand. That represents about one tenth of the total institutional population. Our expectation at the present time is that the total number held in this age group will increase once they fall under the jurisdiction of the Young Offenders Act.

It is not the increased numbers, however, that will cause the Young Offenders Act to have its greatest impact upon our system; neither is it that the requirements of the act represent a dramatic change in the way offenders in this age group will be treated.

Interestingly enough, the transition for the 12-to 15-year-olds from the Juvenile Delinquents Act to the Young Offenders Act involves more changes than the shift for those who are 16 and 17. The provisions of the Young Offenders Act are in many ways similar to those of the Criminal Code.

11:10 a.m.

What does represent the main impact on this ministry, both operationally and financially, is the requirement that accommodation for young offenders be separate and apart from adult offenders. This will necessitate the provision of a large number of beds across the province. These will be provided through a combination of new units and renovation of existing facilities.

Our planning for these facilities is still under way. I can describe for you, in a general way, the types of accommodation we hope to use, and the principles which are guiding our planning process. Wherever possible, we will try to make use of existing buildings to minimize capital costs and reduce the time required in preparation. In other cases, we will be making use of the prefab style units produced by the ministry.

In a number of locations, where facilities are suitable, the young offender units will be on the same site as adult facilities. This will allow for shared use of support resources such as administrative and kitchen facilities, while meeting the "separate and apart" requirements of the act.

It should be noted here that Ontario and many other provinces are extremely dissatisfied with the federal government's unwillingness to share directly in the considerable capital cost that will be imposed on the provinces due to these "separate and apart" requirements. One area which is of particular concern to the provinces is the federal government's outright refusal to contribute to the capital costs of providing pre-trial detention facilities for young offenders, although it will fund such pre-trial services as bail.

Clearly, this is totally unrealistic. We are certain that the courts, when dealing with certain young offenders who have committed serious and violent crimes, will require that they be held on remand in maximum security facilities, as is now the case.

Finally, we are very concerned about the problems which might be caused by having the courts, rather than correctional officials, determine the appropriate level of incarceration for offenders entering our system.

Sixteen- and 17-year-olds represent a much larger portion of the client population in community-based programs, such as probation, which is approximately 25 per cent. I might point out here that the ratio of young offenders in our community programs, as opposed to those incarcerated, is currently nine to one.

The logistics of preparing for the change in legislation applying to this group are, for obvious reasons, much less onerous than for the institutional population. We are well experienced in the delivery of community-based sentencing options available under the Young Offenders Act. This raises a point which I think is well worth emphasizing.

There has been much talk of the thrust within the Young Offenders Act towards community-based programming and away from incarceration. Not only does my ministry endorse this aspect of the act, but we have actively pursued this objective for many years. In fact, the proclamation of the Young Offenders Act only serves to formalize policies which have been in effect for some time in this province. Unfortunately, this has not been duly recognized in many accounts of the preparation for implementing the act and, in particular, in the comments on the negotiations with the federal government.

I will not dwell any further on the important long-term implications of the YOA, but I do want to point out some of the many activities already under way. Apart from the relatively obvious preparations, such as accommodation planning, there are a vast array of tasks which must be completed if the transition next April is to be a smooth one. These include:

- 1. Developing policy and mechanisms for the delivery of such services as education, trades training, medical, psychiatric and dental care and for expanding upon our community programs for young offenders and their families;
- 2. Reviewing and adapting relevant ministry legislation compatible with the Young Offenders Act, as well as with a number of other related federal and provincial acts;

- 3. Preparing and delivering staff training on various aspects of the new act;
- 4. Developing policies and mechanisms for providing additional open custody alternatives;
- 5. Developing responses to greater court and family involvement;
- 6. Designing and putting into place both manual and computer-based record-keeping systems which meet the confidentiality and retention-destruction requirements of the act, as well as meeting the ministry's planning and information needs; and
- 7. Recruiting the additional staff who will be required to assist in operationalizing the plan.

The list goes on, but the point is made. Even though my ministry will not have any young offenders as clients until the 1985-86 fiscal year, the act already represents a source of considerable work for many of my staff.

The necessary amendments to the Ministry of Correctional Services Act to incorporate the requirements of the Young Offenders Act with respect to 16- and 17-year-olds are currently being drafted, and it is anticipated they will be introduced in the fall.

In closing, I wish to pay tribute to a very hardworking, dedicated staff and to say to them, through the vehicle of these estimates debates, that I sincerely appreciate the work they have done in this and in previous years.

I am aware of the tremendous challenges they face in the implementation of the Young Offenders Act, but due in large part to the firm principles and resoluteness of staff, I anticipate that, within the very near future, this ministry will be able to look as proudly on its work with young offenders as we can on the work we are currently doing with adult offenders.

Before I finish, I might add, as I welcome our new critic for the Liberal Party, Mr. McKessock, into the fold, I would like to take this opportunity to thank Mr. Michael Spensieri, the former critic, the member for Yorkview, for his contributions over these past three or four estimates with which I have been involved, and to wish him well. Thank you very much.

Mr. Chairman: Thank you, Minister. Before I turn to Mr. McKessock for his reply, minister, as you are well aware, the schedule called for eight hours, which would have necessitated an hour on Wednesday, June 13. Because of prior commitments by most of the members, we thought it would be appropriate if we could add on a half hour today, and catch up the other half hour between Thursday and Friday in order that

we may conclude the ministry's estimates this Friday.

Hon. Mr. LeLuk: That would be appreciated. I am thinking of having to bring our staff back just for one hour next Wednesday. If you could try to accommodate that hour before Friday, or if we—

Mr. Chairman: What we will do is sit for a half hour today, and we will pick up the other half hour between now and—

Hon. Mr. Leluk: I was going to suggest that, since we have several new members on this committee, they might wish to take that hour next Wednesday and visit one of our local institutions. I am sure it would be a very educational process.

Mr. Chairman: Our problem is that some of the members have prior important commitments for Wednesday.

Mr. Williams: We will be visiting in Ottawa.

Mr. Chairman: Yes, Ottawa. It will be the big institution. Mr. Mitchell, I am sorry.

Mr. Mitchell: I can only speak for myself. I was not aware that you planned to ask committee to sit the extra half hour today. Unfortunately, I have commitments in the riding and will be flying out of here in the not too distant future.

I would hope that the members of the committee would recognize that this is something that has caught most of us unawares, and would not precipitate any action. I know my colleagues, Mr. Swart and Mr. McKessock, will accept that as more or less a gentlemen's agreement.

Mr. Swart: I was just going to make the comment, in view of what Mr. Mitchell said, that I think, unless it is unanimous, we should not change the hours. It is something like the orders of the House and I think we should have unanimous consent to deviate from it. I know people will have made commitments. I have one on Friday, for instance; I could not spend extra time after one o'clock. I think we should stay with our schedule.

Mr. Williams: I think, as a courtesy to our Liberal colleagues in the House, we should do everything we can to accommodate them and this is one of the ways in which we can do that. I am sure we will have unanimous concurrence of the committee in the light of that observation.

Mr. McKessock: I have no problem with sitting an extra half hour today and finishing up the other half hour, although the suggestion by the minister interests me, in that we would take that hour and visit an institution here in Toronto.

If that could be arranged for next Wednesday morning, and it would be agreeable to the committee, I would certainly agree with that.

Mr. Mitchell: I am sure the member for Welland-Thorold (Mr. Swart) would be only too happy to allow for the extension today. I realize we all have made commitments; it was quite clear that I had made one. We have done this before as a gentlemen's agreement between the members of the committee. I think, in respect of the things that are happening next week, with which Mr. McKessock and others will be involved, it certainly would be in the interests of the committee.

11:20 a.m.

Mr. Swart: I just want to repeat what I said before: if there is unanimous consent, I am quite in favour of it, but if there is no unanimous consent, even though some cannot be here, if they agree to our going ahead, I am quite prepared to. I do not think we should override anyone's objections, that is all I am saying.

Mr. Chairman: Can we have unanimous consent?

Agreed to.

Mr. Chairman: With that, we will turn now to Mr. McKessock for his reply, and welcome to the new critic's job.

Mr. McKessock: Thank you. It is a pleasure for me to be here and join in the estimates debate of Correctional Services. I feel as if I may be on parole or something today, because I feel as if I am being watched, especially from the comments of the minister in the House yesterday, when he said, "We will find out how much the member knows today."

I can tell you that in this area I do not know a great deal, but I am learning fast. I find it a very interesting and challenging ministry. I am deeply concerned in the areas of rehabilitation of the offender and fair treatment for the victim.

I attended my first jail this week, the Don jail, and it was a good experience—a little depressing, but a good experience. It was a new experience for me and I want to thank the minister for arranging that for me and my researcher. We certainly were treated fantastically there by the superintendents, Carl De Grandis and Neil McKerrell.

We had a good tour there, and I look forward to touring some of the other facilities throughout Ontario this summer if that can be arranged. I believe I did attend the Guelph Correctional Centre back about 30 years ago, and I look

forward to going back to it and seeing what is happening there now.

I have a prepared statement that I will read now. It is going to be fairly short, and we can then get into questioning various areas as we proceed through the estimates.

I am very concerned with the lack of discharge planning within the ministry's facilities. By discharge planning, I am referring to the process by which the social services workers of the institution work with an inmate on short time, to prepare him to cope successfully and positively with the community into which he is to be released.

The type of planning of which I speak goes beyond five to 10 minutes with his or her parole officer to make sure the prisoner knows how to receive the bus fare due to him back to his place of arrest. It has to go beyond that. It goes beyond filling out applications for the Ontario health insurance plan and drivers' licences.

I am not here intending to criticize parole officers. I readily acknowledge the overwhelming case load they are assigned, and which often allows them only cursory contact with the majority of inmates. Rather, I am suggesting a form of discharge planning which is likely beyond the qualifications and constraints of many officers, and is best placed in the hands of social workers.

Generally speaking, most inmates are totally unprepared for the situation they will meet when they are returned to the streets. To some degree, the shock of release is dampened by the temporary absence program. However, this program serves best to illustrate the inconsistencies and shortcomings of programming within penal institutions.

The type of planning to which I allude must include addressing both the psychosocial and physical aspects of reintegration with the community; issues such as the labelling process which accompanies "ex cons," the reality that criminals are punished at least twice for their crimes, once by the courts and once by a society which judges them daily upon their release. Indeed, perhaps this latter is the harsher judge of the two, second only to the individual's self-judgement.

I am familiar with one case of an offender being returned to his small northern community after serving his time for passing bad cheques. Little or no consideration was given to how his family was coping with the bad reputation his actions had given them. The family's anger and the resentment at the offender were not addressed, nor was the reality of making peace and preparations with a community whose trust he had violated.

The issues were ever present in this resident's actions and anxiety as his release approached. But no coping mechanisms were ever suggested. This example is not, I believe, atypical. If psychosocial components of release and assimiliation back into the community are not addressed, how can success or rehabilitation be expected?

Of equal importance are the practical aspects of survival upon release: how to budget; how to plan; how to fill constructively the long hours in a day; how to avoid hanging out in environments which could land the individual back into jails. Most residents do not know what to do with their leisure time or how to stay out of trouble.

For a person on probation or parole, the conditions of his release place considerable limitations on his activities. To be told to stay away from alcohol, bars, or persons with criminal backgrounds is tantamount to telling him to stay away from family, friends and the most familiar centres of recreation he knows. It is not surprising that the majority of persons leaving under these regulations violate them daily.

Without a comprehensive discharge program, how can these people be expected to be assertive enough to change their past lifestyles and say "No" to a friend who wants them to go joyriding or rob a convenience store?

Of the Brant county community service order program, one paper emphasized that "Anything which keeps youths out of jail and away from hardened offenders is worth looking at...The best result"—of the program—"is that offenders learn to make better use of leisure time...A notable byproduct is less overcrowding of prison facilities."

As important, residents must be shown how to access the vast array of social services designed to help their reintegration. Many young residents will not be returning to their families.

I am thinking especially of the 7,940 16- to 18-year-old residents in the minister's institutions in 1982-1983 who, for a number of reasons, decide upon release to try to survive in the Toronto area. Devoid of the basic communication and positive social skills necessary to link up with positive elements in the community, they quickly fall prey to criminal methods and elements in order to survive.

I recognize that discharge planning, as I envisage it, is a difficult task. The minister is dealing with a population whose length of stay in

his institution ranges from less than one week to just under two years. However, the minister's 1981 study, Parole Decision-Making in Ontario, emphasizes the critical role which release planning plays in ensuring that the inmate does not return to jail.

The report notes the positive correlation between the release plans of the parolee and the likelihood that he would not recidivate. I encourage the minister to consider seriously his commitment to "make available to clients those program opportunities to assist in making positive personal and social adjustment" with relationship to this concept of discharge planning.

I emphasize this concept for a number of reasons. Certainly, the long-term cost benefits are primary. A serious attempt to help offenders integrate into their community will reduce the rate of recidivism. Furthermore, it will place the issue of overcrowding within a context which the minister must find amenable.

11:30 a.m.

While the minister's oft-heard pleas that he cannot control the number of people sentenced to his institutions are not totally hollow, certainly he can clearly affect the environment and learning which occurs within his institutions. In this manner, he can in part control the number of residents who recidivate.

I would like to know from the minister, in the light of the high percentage of recidivists in his institutions, what rehabilitative programs such as I have described he has in place which will aid the inmate to conform to socially acceptable standards upon his release. I would also like to talk a bit about alternatives.

In 1777 John Howard, the famous humanitarian reformer, said that prison men know morals. In his pleas for a more humanitarian approach to the criminal offender, he asserted that not only did it not make sense to remove people from society and into the harsh and inhumane environments of prison for a long period of time, but he asserted that imprisonment "doth notoriously promote and increase the very vice it was designed to suppress".

Some 207 years later, I find myself echoing John Howard's plea. Despite the rhetoric of the ministry, nothing much has changed—least of all the attitude of those empowered to deal with society's offenders. Clearly, the ministry's approach to alternative programming emphasizes this. In my mind, I am convinced that this ministry has accepted the concept of alternative programming as a response to overcrowding conditions and economic constraints placed on

institutions, and not out of a sense of humanitarianism.

I can only speculate that the concept of alternatives to incarceration had been forced on the ministry and not chosen by the ministry, and this accounts for the shotgun approach it has taken in this field—the lack of comprehensive policy and the ministry's attempt to erode the alternative concept both economically and politically.

It may well be in the minister's best interests to fill his institutions beyond capacity, in order to create crises and fan the fears of the public who have been led to believe that jails and other institutions are filled with violent, vicious criminals. Certainly this has aided his attempt to justify requests for additional capital for expansion of his facilities.

In February of this year, the minister attempted to pull the plug on a service which, in the minister's own words, "met an unfulfilled need" of the provincial justice system. I am speaking, of course, of the trial bail programs across Ontario. The cost of effectiveness of these programs cannot be questioned. One director of the program estimated that the decision to cut the \$812,000 annual budget would cost the ministry an extra \$73 million per year. This estimate is not difficult to envision.

From a Globe and Mail editorial, we have the summary, and I quote: "The programs, which may supervise 1,000 people at any one time across the province, cost the ministry \$812,000 a year...even if we accept the estimate of Don Evans, executive director of the ministry's community program, that three quarters of them would have been on the streets without the program, that leaves 250 who are being spared an early—and for those who are acquitted perhaps, their only—introduction to life in jail.

"The program costs \$2.75 per day per person of supervision; keeping the same person in jail costs as much as \$67 a day."

As important as, if not more important than, the economic issues are the humanitarian ones. Condemning an individual to share a cell with two or three hardened criminals, just because he could not pay the price of bail, is cruel and unjust. Gordon Walker, Provincial Secretary for Justice, recalls one case, and I quote: "... where a man had spent 48 days in jail because he could not raise bail of \$150. This was obviously wrong."

The minister has heard these arguments before. Certainly they were used when public pressure forced him to reverse his decision to kill

the bail program almost as soon as his decision was announced.

What is frightening is the minister's statement in February that he has not been able to determine whether these programs have had a significant impact on the institutional population. Surely, after more than four years of operation, if the minister cared to measure this program's impact, he could have done so by now.

My question is this: has the minister set up a mechanism to accurately measure the program's effectiveness? What exactly does he consider to be significant impact? When was this mechanism introduced?

The state of the alternative policy planning from my perspective and experience with the criminal justice system is fairly dismal. It appears to be fragmented, lacking co-ordination and clear goals, and evaluation research is minimal. Indeed there is a lack of information, not only on research with respect to the success or failure of alternative programs but, as important, with respect to the current sentencing and remand practices throughout Ontario. The lack of substantive scientific research is one of many inhibitors in the growth not only of alternative programming but of acceptance of these programs.

This acceptance is required not only from the public, but from key actors in the criminal justice system: the police who act as gatekeepers; the judiciary, who have a great deal of influence over the number of people sent along an alternative route; as well as the lawyers and the social workers.

I mentioned the remand program. It was of great interest and concern to me when we toured the Don jail to see on the computer the number of times that remands keep coming up. Every week they come up for remand and there would be some who would have remands maybe a dozen times.

This is one area that is not under your jurisdiction to cure. However, within the justice system these cases have to be cleared up a lot quicker, which would certainly eliminate a lot of people in your jails. In the Don jail especially, they are there awaiting a sentence. If the trial keeps being remanded time after time, it certainly adds to the pressure on the jails and does nothing for the offender and nothing to alleviate the expense to the taxpayer.

When, if ever, does the minister intend to act on his public statements on the efficacy of the alternative concept and back that endorsement with long-term financial support? The fine options program is another instance of alternative programming which offers the potential for fantastic cost saving and easing of overcrowded conditions. As the Hamilton and St. Catharines programs enter into their second year, the question must again be asked: when will the minister acknowledge the success of these projects and introduce them across the province?

The seriousness of this issue was highlighted in February of this year when Warren Martin, an inmate at Mimico Correctional Centre, was seriously injured in a fight within the centre. He was serving a 30-day sentence for driving while his licence was suspended. He died three days later. All this for a traffic violation.

Consider also Metropolitan Toronto, where the minister often focuses his attention in his pleas for more capital expenditure to alleviate overcrowded conditions. In 1982-83 the number of offenders in the Metropolitan Toronto East Detention Centre, the Metropolitan Toronto West Detention Centre and the Mimico Correctional Centre charged with fine offences has doubled from 2,799 in 1981-82 to 5,459 in 1982-83. Across Ontario, 19,000 bed spaces are being filled by fine offenders, more than 5,000 of whom have no prior record.

11:40 a.m.

When does the minister intend to alleviate overcrowding in a cost-efficient manner such as through viable alternative programming?

I feel that alternative programming must not be, nor be seen to be, an adjunct to the criminal justice system. Rather than being a stopgap measure to deal with penal overcrowding and economic belt-tightening, it must become an integral aspect of the system. I would suggest to the minister that one alteration which would reinforce this concept—of integration versus adjunct—would be to require that financial support for alternative programming be supplied predominantly from the budgets of those agencies affected. For instance, since alternative programming will reduce the prison population, some funding should come directly from that budget.

At present funding seems to come for the most part from federal or provincial "pockets" set up to fund alternative programming on an experimental basis only. The consistency of such funding is of a major concern. Will it be present next year or will it fall by the wayside as interest in alternatives wanes? After all, if, as the alternative philosophy often purports, a goal of such programming is truly to provide an alternative to

imprisonment, then should not some funding be provided for it from incarceration capital?

With regard to capital costs for expansion, June Callwood summed it up best by stating: "Significantly, no one else talks much about constructing more jails—not the Ombudsman, not the union, not the guards...They talk instead of alternatives to prison for nonviolent offenders: extended use of community resource centres; temporary absence and bail supervision programs; speeding up clogged courts. Most inmates in Toronto West and the Don are awaiting trial."

This concept of alternatives as a mere adjunct to the correctional process, a luxury as it were, was emphasized by the minister last year in this forum. He stated that, "The success of community resource centres has encouraged the ministry to expand the program, and depending upon the availability of funds to increase the number of residences...over the next five years."

Further, will the minister consider actively pursuing pre-sentence and pre-trial alternatives, programs which will avoid often unnecessary expense and costly tying up of the judicial system?

I would like to suggest to the minister that unless a sincere commitment towards alternative programming is adopted within his ministry, the little programming in existence is sure to fail. The minister should give serious consideration to adopting a perspective that imprisonment should be a last resort, not the first one, for an offender.

In concluding my remarks, I would like to state that my staff and I were impressed and appreciate the co-operation we received from the minister to date, and we look forward to continuing this in the future. I would also like to thank my new researcher, Steven Davis-Mendelow, who has helped me prepare for these estimates, and I would also like to state his appreciation to the ministry for the assistance given him.

Mr. Swart: Mr. Chairman, I am pleased to participate in these estimates, although up until about five days ago I did not know I was going to do so. Everyone obviously has commitments and I would acknowledge immediately that I will not be making the contribution that would have been made by Mr. Renwick if he were here, who not only by his training but by his experience and interest—I think everyone would agree—made tremendous contributions in the administration of justice, particularly in the area of correctional institutions.

I want to say immediately that this is probably politically the most difficult ministry the government has to deal with. Generally speaking, the people you serve do not want to be served, do not want to be where they are and dislike what you are doing to them.

In addition to that there is the conventional wisdom at the present time—I could be wrong, but I think I detect a trend out there—that is saying to offenders, "Put him in jail and throw away the key." That is true more now than it has been in the past. Yet, of course, that is directly contrary to the principles stated in your briefing book and directly contrary to the restraint program to which your government subscribes.

I would just point out that one cannot disagree with the goals and principles, at least most of them, that are set out in the briefing book with which you have provided us this year. Under the heading "Ministry Goals" it states:

"C. To create within institutions and community programs a positive climate in order that offenders become motivated towards positive personal and social adjustment;

"D. To make available to clients those program opportunities necessary to assist in making positive personal and social adjustment."

Then, under the heading "Principles", it states: "1. Wherever practical, correctional programs

should be community-based.

"2. The emphasis should be on helping offenders develop and maintain responsible and acceptable behaviour within the community.

"3. Correctional programs should apply that degree of control necessary to protect society, thus necessitating a continuum of programs with progressively increasing supervisory and structural controls.

"4. Detainment in correctional facilities should be utilized for those persons whose criminal actions are substantially damaging to society and to whom the necessary controls are not available through any other source or where a necessary deterrent impact cannot otherwise be achieved."

Then "6. Notwithstanding the above, all correctional programs and facilities should provide an environment and opportunity for positive personal and social adjustment."

No one can disagree with those. Of course, I have not quoted them all, and I do not disagree with the ones I have not quoted. I have quoted those for a purpose; I want to put what I am going to say in the context of those goals.

So within those contradictions you have of restraint, of general public opinion and then of

these goals, you are in a very difficult position, especially as a member of a government that operates generally by polls, not so much by principles, as you lay out here. I suggest to you that the estimates you have put before us, and even your opening statement, display some of those contradictions and that dilemma you find yourself in.

In your opening comments this morning there is a lot of rhetoric and statements—not all rhetoric—about improvements, the great improvements which have been made and the improvements which you are going to make. Yet if you look at the estimates and the amount of moncy put in the estimates, it belies those proposals which you are putting before us.

11:50 a.m.

Your own estimates point out that this year you anticipate there is going to be an increase of 2.1 per cent in the number of clients. That is 128 more in jail, detention centres and correctional centres this year than there were last year.

Interjection.

Mr. Swart: Incidentally, I did not interrupt you, minister. If you look at the chart on page 11, 1984-85 projected, there are increases of 2.1 per cent, using your own figures, in the jails and detention centres; plus 2.1 per cent under the correctional centres; and in probation and parole, plus five per cent. Is that not correct? Do you not see those figures?

Hon. Mr. Leluk: Projected.

Mr. Swart: That is exactly what I said. It is not a projected decrease, but a projected increase of those amounts this year.

Also this year, with regard to your staff, wages are going to increase somewhere between 4.5 and five per cent. I think that is correct. One would anticipate this year, if the cost per client is going to be the same as the average for the past years or the average for the best of them, that in order to provide the same service this year, you are going to have an increase of seven per cent in requirements.

Of course, your budget does not provide that at all. Your total budget goes up from \$226 million to \$227.5 million, as given on page 10. Perhaps I had better refer to these as I go along. You are obviously not very familiar with them, minister.

It states there that you spent last year \$226,009,000. This year you are proposing to spend \$227,634,000, an increase of about 0.7 per cent. Although prima facie evidence would indicate that your requirements are up by seven

per cent, you increased the money by only 0.7 per cent.

I would like you to turn then to page 60 of your program, your main expenditures. I point out there that your expenditures last year were \$177 million and your projected expenditures this year are also \$177 million. Perhaps you would tell us in your reply where that saving is going to be made, if you are going to spend the same amount of money this year.

In fact, if you look at the top of the page, your actual expenditure on salaries and wages—and incidentally, this is vote 1702, the institutional program—the amount of money which you spent in wages and salaries last year was \$120,301,000. This year you are just slightly under it, \$119,987,000.

How many staff are you going to cut? Even though there is going to be an increase in clients, are you going to be cutting staff? If not, then where is the money coming from to pay the additional staff? The obvious facts are that you are going to have fewer staff. That is in the main institutional program you have.

Turn to page 82 of that same document, the institutional program support services. This is not a large amount, but we find that not only is it below what you spent last year, it is below what you budgeted last year—\$2,166,000. That is small, and I am not going to spend a great deal of time on that.

What bothers me more is on page 89, institutional staff training. You will find there that the figures which you propose for institutional staff training, which you yourself have emphasized in various documents, last year were \$1,528,000 and this year are going to be down to \$1,503,000.

Are you cutting your staff training this year? Obviously, you are. When there is a great need, especially with the Young Offenders Act, where you have indicated you are going to have to have new staff training, your total figures are cut.

Just as in all of the other budgets of the government, if you turn to page 41 you will find that the really only substantial increase in any budget this year is for information services. Information services are up nine per cent above last year's expenditures, but 29 per cent above what was budgeted last year. One wonders if maybe all these proposed improvements that are being suggested by the minister are not largely a public relations gesture.

I suggest to you, with these figures we have given and with the increase you have, that conditions within the jails, even with regard to overcrowding but certainly other conditions within the jails, are not going to get better this year. In fact, in all probability, they will get worse.

You, minister, in your own submission this morning quoted from the report of the Toronto Jail and said it had not been fairly presented by the press. I noted that in your initial statement you did not mention any of the derogatory comments. For purposes of balance if nothing else, I am sure you would like me to read at this time a few of those into the record.

First, I would like to deal with the comments of the public institutions inspection panel which was convened on May 25, 1984, and that is fairly recently, with regard to conditions in the Toronto Jail. On page 10 of that report it says, "Number of residents, 459; institution has 414 rated capacity, counts average 450 over winter."

Then, if we go on to page 13 of that same report, it reads that the admission centre "was cramped and poorly laid out." Then, if we go on to page 14, we see the exercise facilities: "At present there is an outdoor exercise yard where inmates can spend 20 minutes per day. The last panel noted the lack of a proper recreational facility and the administration stated that construction of a gymnasium was high on their priority list of capital projects." However, of course, it was not there.

I could go back to previous reports by the public institutions inspection panel for the six months before that and a year before that, which are even greater condemnations of the Toronto Jail.

I would like to refer to the Metropolitan Toronto West Detention Centre. On page 47 of this same report under "Living Quarters," it says: "The units housing inmates were never designed to serve the number of people currently being held. Overcrowding has led to adverse living conditions. The panel observed the following problems due to overcrowding:

"1. There were, on average, three inmates per cell (two in bunk beds and one on a mattress on the floor) in rooms originally designed to sleep one person only.

"2. The ventilation system was poor in the units, especially the courts unit. Because of poor ventilation, there was a musty-food smell.

"3. Inmates were fed in the common areas of the living units and there was not always enough table space to accommodate everyone, forcing some inmates to sit on the floor for meals."

Then if we move on to page 59, the inspection panel makes some comments about the Metro-

politan Toronto East Detention Centre and states under "Living Quarters," "Overcrowding is a serious problem at the Toronto east detention centre, with three inmates sharing cells originally designed for one person (two in bunks and one on floor)."

12 noon

That is what the public institutions inspection panel said about the three main jails in the Toronto area and I suggest, regardless of how you try to dress that up, that is a pretty serious condemnation of the conditions in those jails.

I also want to point out that that is not confined to just the Toronto area. I have here the report of the inspection panel in the Waterloo jail—in fact, I have the last three reports here—which may be worth a few comments.

Under the one dated May 18, 1983, point 3, Waterloo regional detention centre: "It is noted that overcrowded conditions in both the administration area and the cells themselves are still a problem. Staffing conditions are such that inmates are still only allowed a one-half hour per day exercise period.

"Recommendations:

"(a) The facility should be expanded as it is obvious that the numbers requiring detention far outstrip the space available.

"(b) More staff should be hired to reduce the number of detainees per security staff member and to allow more outside activity for those being detained"

Yet, in fact, your budget this year for staff for all your institutions is down, and substantially down, if you take into consideration the increase in wages they will be receiving.

If we go to the November 18 report; again the Waterloo Detention Centre: "Although this facility is antiquated, it appears to be put to its optimum effective use. The overcrowded condition on weekends is the main source of concern."

Then we go to the most recent one dated May 14, in a type of summary they say about the Waterloo Detention Centre: "In each and every report for the last three years, (at least) the overcrowding conditions in both the administration area and the cells themselves has been brought to the attention of all concerned. It should have been dealt with by this time."

That is the report of the inspection panel, minister, and perhaps puts the whole situation a bit more in perspective.

Page 55 of the report states that "the panel feels that the Toronto west detention centre carries out its mandate of protecting 'the inmates' mental and physical wellbeing' and ensures that those

incarcerated at MTWDC are treated with basic dignity."

Do you know one of your reports states—I do not have it in front of me here, but I will find it for you if you have any doubts about it—that where there are three clients in a cell, at night two of the clients are forced to urinate right beside the head of one of the other clients sleeping on the floor? That, I suggest to you, is not dignity.

I would like to ask—you or your deputy can perhaps include this in your reply—how many additional beds were provided in the whole system this past year, apart from double bunking and otherwise doubling up. I would like to know the net amount of those.

You state on page 11 of your submission to us this morning, "Plans are well under way to begin construction of additional facilities at 10 of our institutions later this year which will add more than 500 bed spaces to the system." Then you go on and explain.

I realize many of these are new rooms, but I would like to know also how many of those 500 are double bunking or in other ways a doubling up of the clients you had.

It would seem to me that things are not, from these reports, a great deal better than they have been.

I have here a clipping from the Toronto Sun dated, I believe, January 24 of this year. The day before there had been a report of a confidential memo released to cabinet by your deputy, Dr. Podrebarac, which quoted him as saying last May that the "crowding is grave and growing to explosive proportions."

When questioned about that, Dr. Podrebarac said that the intake had lessened to the point where it was no longer explosive. I will concede that the intake—of course, from your own figures—has not increased at the same rate. But I suggest to you that, if you are going to cut the staff you have to cut this year because of your budget, conditions are going to be as explosive as they have in the past.

When you are increasing the numbers under your care by two per cent this year, the explosive conditions are going to be there, perhaps not to the same degree of overcrowding, if we proceed with this substantial new building, with new cells—or maybe you do not use that term today—with new rooms. If they are just going to be doubling up, I would suggest to you there will be no alleviation of that explosive situation.

I would like you to provide some information for me. It certainly has relationship to the

overcrowding, and may be available at some place at present, but I do not have it.

You have mentioned in your submission to this committee, on page 14-perhaps we can just look at that-about the fine options and the fact that there is a pilot project under way.

You state there, "Of the 320 fine defaulters who participated in the program, 261 either completed their full number of hours of community work or fulfilled their obligations through a combination of work and payment of fines." Then you go on to state that "more than 8,272 hours of community service work were completed by the participants and the cost of some 2,600 days of incarceration was avoided."

I know the member who is the critic for the Liberal Party raised this in the House yesterday. I know his 19,000 figure referred to places in jails. I am a bit confused about that. I suspect it would have been 19,000 over the year, perhaps, because there are not that many places in jails. Nevertheless, the issue is a very important one.

I would think you would have saved here, by quick mathematics, about \$140,000, and perhaps closer to \$200,000, by this pilot project. Would that not be correct, if you multiply the 2,600 days by the average cost of keeping a person in an institution?

So we can get a handle on this sort of thing, I wonder if you would provide for us the number of short-term offenders who are serving time instead of paying fines. Can we have the number in your jails at any given time, or the number for the last year, in any event, something to give us a handle on this?

What kind of savings can be made by this program which, according to your answer yesterday, you were not ready to expand at this time and that you were going to wait until some further report is tabled on it?

12:10 p.m.

In the report you gave us today, you indicated that something like 25 per cent of the numbers in your jails and detention centres at present time are on remand. Am I right in that? I think I am right in that figure.

You indicate the numbers are going up and down quite dramatically. In your reply, could you tell us why, in your opinion? Is it because there is a backlog in the courts, is that why? When the numbers go up and down, is it because the courts are not sitting, and you have more remands then?

I would like to have some information on that, if this committee is going to make practical

recommendations about changes which should be made.

I wonder if you would also give us a breakdown of the numbers on short-term parole, regular parole, and parole versus probation. Perhaps I should go over that again, to make clear exactly what I would like to have: the breakdown of numbers on short-term parole and regular parole, from the figures you gave us on the numbers on parole, and the numbers on parole versus probation. You may have that some place. If not, I would like to have those figures.

I would also like to have some further information from you on the overcrowding suit which has been brought by the Ontario Public Service Employees Union. You made reference to it.

Where is it at? Is it going to be coming to court soon? I know you disagree, you say they do not have a case, but is it coming to court soon? Have any court actions yet been taken so it will proceed? Have there been any advance hearings, or anything of that nature? Will you please reply to that?

I also would like to deal with your pre-trial bail verification and supervision, which you referred to on page 25. Go back to page 24, where you have the bail program: "The initial pilot projects were funded jointly by the Solicitor General of Canada's consultation centre and my ministry's probation and parole branch.

"Subsequent expansion to the current 12 projects was funded solely by the probation and parole branch, through redeployment of funds which had been designated to meet the escalating work load of the branch. In successive years, the combination of financial constraints, continued growth in the demand for post-disposition community-based programs, and the inability of the bail program to demonstrate that it was providing a clear alternative to pre-trial incarceration, made it necessary to re-examine program priorities.

"While we recognize that there may be some value in the provision of pre-trial services such as bail verification and supervision within the provincial justice system, the costs to my ministry were considered to be disproportionate to the benefits."

I wonder if you have seen the research document. Incidentally, I realize you are now going to extend this program for another year, but it is questionable whether it will continue, and you are re-examining it. My colleague, Jim Renwick, asked the library research staff to do some investigation for him on the results of this

program. I would like to report to you some figures which you probably have, or ought to have.

It says, "About 1,200 people per month report under the program in the province." This is the bail verification and supervision program, which is provided on contract to the John Howard Society and many other organizations in Ontario. I believe you have 12 at present and it will not be necessary for me to repeat those to you today.

"Of these, 500 report in Toronto to the Toronto bail program, which is the largest one. Donald Evans, executive director of the ministry's community programs division, claims that the number that would actually have stayed in custody is closer to 250. Sally Lewis, director of the Toronto bail program, disputes his contention, however, on the grounds that the 1,200 people are selected because they look like people who will not get bail." Those 1,200 people, according to her, would otherwise be in the detention centres of this province.

"The program currently works on a budget of \$812,000 from the Ministry of Correctional Services," which is going up to \$900,000. "The bail program of Ontario states that the cost of supervision is \$2.75 per day per person, as compared with an average cost of approximately \$70 per day for every person held in custody (the amount would vary according to the facility)"—as

we well know.

"The director"—and I am still quoting from this document—"of the Sault Ste. Marie program, run by the John Howard Society, has calculated that 107 people have been supervised under their program since its inception, for a total of 11,472 days of supervision. Had this time been spent by people in jail, at \$70 per day, the cost would have been over \$800,000"—instead of the approximately \$30,000 which it cost the ministry.

"Andy Telegdi, of the Kitchener program, estimates an annual cost of \$67,437 for the supervising program, as compared with an annual cost of detention for the same people at

\$1,874,708."

Incidentally, I am not sure whether you have seen this report which was done for Mr. Renwick. I am sure you have.

Then, under "Success Rate" in this report:

"The director of the program in Sault Ste. Marie states that 61 per cent of the people in the program have completed it successfully since December, 1979—that is, no more charges were laid, the person appeared in court, etc.

"The community corrections agency which administers the program in Windsor reports a failure rate of less than 10 per cent with her clients, again using tests such as failure to appear, new charges, failure to report, breach of any conditions of release, etc. The Windsor program also reports that 633 verifications took place at the Windsor Jail in 1983; of these, 444 ended with release—approximately 70 per cent.

"Another director (Duncan Gillespie of the John Howard Society, serving Hamilton-Wentworth regions) reports that of 804 people under supervision since April 1979, 22.4 per cent were rearrested for one or more offences, including failure to comply with conditions of bail, failure to company and even criminal observes.

to appear, and new criminal charges.

"The director of the St. Catharines-Niagara Falls program reports that during the period January 1, 1979, to April 1982, 11 per cent of the clients were rearrested while on supervision." That means, of course, the other 89 per cent were not.

Then there are tables here.

Perhaps under "Sentencing" I should make one comment.

"Duncan Gillespie of the John Howard Society, serving Hamilton-Wentworth regions, reports that of 804 people who have been under supervision, 83 per cent were supervised under the program for less than six months. Without this supervision, these people would have been in custody for this period."

Under "Evaluation of social services provided

by the program" it states:

"Predictably, the information available in this area tends to be anecdotal. However, it is interesting that the minister himself, in a speech delivered on July 27, 1981...claimed the follow-

ing statistic for the programs:

"I am particularly proud to report that many of the more than 2,000 people placed on bail supervision last year used their pre-trial period to find employment. In fact, the unemployment rate dropped by 13 per cent at the end of the supervision period'."

12:20 p.m.

So not only are we keeping these people out of jail at a cost many times less, but in addition numbers of them are finding jobs, even in these very difficult times in our economic system.

Obviously, minister, I would like you to go into this in more depth and tell this committee why you have not expanded this program from the 12. I would like you to provide this committee with the full information you have, on the basis of which you spoke of "the inability of the bail program to demonstrate that it is providing a clear alternative to pre-trial incar-

ceration." While you recognize that "there may be some value in the provision of pre-trial services such as bail verification and supervision within the provincial justice system, the costs to my ministry were considered disproportionate to the benefits."

What you are saying is directly contradictory to all of those voluntary organizations who are doing the verification and the supervision.

I will endeavour to complete my remarks somewhat before the time we are going to adjourn, but it is obvious from that that I would like to move to the Young Offenders Act and to deal with it in a general way and also with some of your comments. We are all aware, as you have stated, that the Young Offenders Act became effective at the end of December of last year for the 12- to 15-year-olds. By April of the coming year, the Ontario government will have to accept responsibility for the 16- and 17-year-olds, including a youth court for those 16- and 17-year-olds.

I think we would all agree that the philosophy of the federal government in enacting this legislation—which incidentally was enacted in 1982 but not proclaimed until the end of last year to give time to the provinces to lay plans for the program—is a good one. I would like to read the comments of the Solicitor General of Canada in February 1982, when he was dealing with this program and gave the following reasons in support of a maximum uniform age of under 18.

"1. The fact that growth and full maturity is not, as a general rule, achieved until age 18 or later, particularly in current times because of the prolonged period of dependency that is required of young persons." That is in our economic times.

"2. The desirability of protecting young persons for as long a period as possible from entry into adult correctional institutions where they will be exposed to older, more experienced offenders.

"3. Having moved to a rights and responsibility model of juvenile justice, it is felt that the benefits of the system should be extended to the largest number of young persons possible who have not yet attained full maturity. This extension of benefits holds out the most promise of preventing a young person's further involvement in illegal activity.

"The full benefit of the resources of the juvenile justice system with its greater emphasis on individual needs than that adult system should be extended to young persons up to 18 because they are, until then, generally speaking, still in

their formative years and at an age level where they can be favourably influenced by positive action and guidance. The law must be particularly sensitive to the special needs and the requirements of young persons and provide them with every opportunity for reformation in order to prevent them from graduating into adult offenders.

"4. Given sufficient protective safeguards for society, which, it is believed, the new act contains, it is preferable to set the age at a higher rather than a lower level. This is especially desirable in view of the retention of the transfer provision to adult court which provides a system with a 'safety valve' mechanism for such difficult cases as the 'mature' criminal who is under 18, or the offender who has committed an extremely serious offence.

"5. This age level is consistent with the treatment of young persons under civil law, including the age of majority." I add in my own words here the right to vote and for that matter, in many areas the right to drink, although we have even put that higher at the present time. "The fact that no province in Canada has its age of civil majority below the level of 18 years bears testimony to the general recognition that young persons under age 18 have not yet attained full maturity and are not considered to have reached adulthood.

"6. The age 18 level better accords with international standards and is consistent with the situation prevailing in most European and western democracies and most common law jurisdictions, including a high proportion of the states in the US." End quote of his paper.

I think, minister, that sets out the philosophy, a principle with which you probably would agree fully. As we know, the 16- and 17-year-olds in this province up until now, generally speaking, have been dealt with by the adult court and by the adult jail system. This is a change, so they will now be dealt with by a youth court and, it is to be hoped, a very different jail system to what we have had available for them in the past.

Your government has had to make the decision whether to continue to use the adult jail, perhaps adapted in some way, or give the authority to the Ministry of Community and Social Services to deal with them, including incarceration of those young people if necessary. As we well know from statements by yourself, by your submission today, and by statements of Mr. Drea, you have decided that is going to come under the jurisdiction of Correctional Services rather than

under the jurisdiction of Community and Social Services.

I want to say very bluntly, on behalf of myself and my party, we think that is a terrible mistake. It should have been directed to the authority of the Ministry of Community and Social Services that now handles those from 12 to 15 years of age. What we are doing—you were going to ask a question; I will stop in just a second.

Mr. Chairman: Let us carry on, Mr. Swart. We want you to finish.

Hon. Mr. Leluk: Mr. Chairman, I just wanted to ask a question. Possibly Mr. Swart could explain why his party-

Mr. Swart: I am going on to explain. I wish Mr. Renwick was here, because he could explain it, but I think it is fairly obvious in principle, first of all, what the federal government has now said is that the dividing line between mature people, between adults, for offence purposes is the age of 18. This is a principle which I think is accepted all across this province, this nation and the world.

We know that is not a line which is absolutely firm, that if it is a serious offence, people younger than that can be tried in the adult courts, and so on. But, generally speaking, the principle has now been established that the dividing line is at 18, where formerly it was at 16, Mr. Chairman.

This is a sensible division, you recognize that within this province we are leaving the dividing line at 16 as far as correctional services go and, to some extent, as far as the court services go. The dividing line is left at 16, instead of going the full way with the principle that has been established by the federal government. We are the only province which will really be doing so, because we are the only province which has a correctional services ministry.

Interjection.

Mr. Swart: Yes, I know exactly what you will say. They have correctional services under some other ministry, whether it is under the Solicitor General or whatever the case may be. But the facts are that there is not a ministry devoted to correctional services, where the main thrust is on institutional services, and that certainly is the case with regard to the Correctional Services ministry.

If you were in Community and Social Services on this, all the support staff they have for the 12-to 15-year-olds could be directed to the 16- and 17-year-olds.

12:30 p.m.

I see in the minister's statement today that many of these 16- and 17-year-olds, at least for the time being, are going to be in the same institution as the adult offenders. I assume a very different section of the institution, but there apparently is going to be common meal services. Are there going to be common recreational areas?

Mr McKessock: They will eat the same things.

Mr. Swart: That is not my worry, that they eat the same thing. My worry is that there will be contact.

There will be a shortage of funds. There will not be the total segregation there should be. When the federal government has determined and this government has determined—because we have the bill now before the other committee—that the line shall be drawn at 18, we are not going to be drawing it at 18 but rather at 16 with regard to these institutions.

If the principle is sound that offenders who are 12 to 18-granted there has to be segregation in those groups; we all recognize this—that those who are aged 12 to 17 inclusive should be in together and then the adults should be in their own institutions and be handled in a different way, then I think we should go the whole way and move these over into Community and Social Services.

Bill 77, the Young Offenders Act, which is now before the other committee, is a bill respecting the protection and well-being of children and their families. I hope you will listen, minister, because I suggest this is very relevant. Under section 36 the definition of the word "child" states that it means a person under the age of 18 years. Everything in that 163-page act applies to young people between the ages of 12 and 17, except the young offenders section, which keeps it at the present age of 16 instead of going the whole way.

I want, minister, to ask you if you will table the philosophy and the reasons why your government made the decision of leaving these under your jurisdiction instead of putting them under the Ministry of Community and Social Services.

I would like to ask you if you will provide a profile of the 16- and 17-year-olds: information on sentencing, what they have been sentenced for, what type of crime or misdemeanour, the disposition of the cases and currently what institutions they are in.

You tell us you have some 700, do you not, as the correct figure. Will you file with this

committee all the plans which you have for dealing with those 16- and 17-year-olds after April of next year? From your statement this morning, I assume that you have not completed all of those plans, but surely you must have some philosophy at this time. I would like to have full information on those plans.

If I can find my notes, Mr. Chairman, I would like to conclude by dealing a bit with the Bluewater institution and what you propose in making the changes there.

I understand that you are going to change that over to an institution for 16- and 17-year-olds. If you are going to have some 175 spaces there, would it not be correct to say the majority of those will come from an area somewhat substantially removed from that centre, which will mean very real difficulty in visitation by parents and by other concerned people, which it seems to me is so essential to young people if you are trying to rehabilitate them?

Will it not perhaps mean much greater difficulty of extensive community involvement when there are no main centres located close by? I am not suggesting for one minute that the people of Goderich and the surrounding area are not as community minded as people in other parts of the province, but when you are talking about a town or city of 10,000 and perhaps 20,000 more within a reasonable driving distance, it is going to make community involvement pretty difficult.

Would you give us an estimate of the cost of changing this institution over? Would you tell us whether the institution is going to be only for 16-year-olds and 17-year-olds, and whether in your opinion it would not be better-I would like to hear the arguments on this-to have an institution which had the 12- to 17-year-olds or 14- to 17-year-olds where you could have one organization, Community and Social Services, dealing with it, rather than having two sets of social workers, one within the Ministry of Correctional Services dealing with the 16- to 17-year-olds and another set dealing with the 12to 15-year-olds, especially if you are going to have institutions, which makes sense, for both groups? Are you going to have two organizations?

I suggest the decision to authorize your ministry to have control over dealing with 16-and 17-year-old offenders is a very serious mistake and it should be reconsidered.

One has to wonder, quite frankly, whether it was done to keep what you consider some useful purpose for your ministry instead of abolishing

the Ministry of Correctional Services, which has been done in all of the other provinces in Canada.

Hon. Mr. Leluk: That is not true.

Mr. Swart: Are there separate ministries of correctional services in other provinces?

Hon. Mr. Leluk: Yes, there are.

Mr. Swart: I will be glad to hear that and, if I am wrong, I will be glad to retract that statement.

Hon. Mr. Leluk: I will correct the record later.

Mr. Swart: I would like to conclude, very briefly, by referring to the victim-offender reconciliation program, which seems to have been a very useful program initiated by the Quakers for people outside of jails who, to some extent, adopt people who are in jails and have them meet with the victims of their crimes. Have you any comment on that program and on whether, in fact, it too should not be expanded to a very substantial degree?

That completes my comments. Once again, I want to express my regrets that Jim Renwick is not here; he could perhaps present more forceful arguments in a more articulate way than I have been able to do. I do want to reiterate that it is the firm, unanimous opinion of the New Democratic Party that 16- and 17-year-olds should be under the Ministry of Community and Social Services, not this correctional ministry which is oriented primarily towards custodial care.

12:40 p.m.

The other comment I want to make is that I have had substantial help from Mr. Fred Troina, who has been seconded to me from the hospital, where he is undergoing some treatment from the Workers' Compensation Board to assist in some of the work I have been doing. He has been taking a course at university, in law actually. He was a very real help to me, and he is here today.

We will, obviously, get into the various estimates once again on these issues and on other issues. I thank you, Mr. Chairman, for your patience in listening to me.

Mr. Chairman: Thank you, Mr. Swart. I am sure Mr. Renwick will read the transcripts when he returns, and I am sure he will be very satisfied with your presentation.

Minister, if you are prepared to proceed with some of the answers, I know you cannot answer all the questions at the present time. Possibly we could start with some of Mr. McKessock's concerns,

Hon. Mr. Leluk: Before I respond to Mr. McKessock, I would just like to say to Mr.

Swart, who started off his comments by saying that we, as a ministry, were dealing with a series of assumptions, that we will clarify this—

Mr. Swart: I am sorry, I did not use the word "assumptions." I just want to set the record straight. I do not know what you are referring to.

Hon. Mr. Leluk: Well, "assumptions" in quotes. I just want to say that my ministry will clarify this over the next couple of days. It is not a contradiction; it is a statement of reality that was made and one of responsible leadership and achievement in this ministry. I just want to get that on the record.

I would like to turn to Mr. McKessock's comments. I am not going to be able in the time left, to deal with all of them, but we might start with, as he put it in his opening comments, the lack of discharge planning in the ministry.

I would like to say that we do have a comprehensive release strategy in the ministry; that is discharge planning. It is a difficult task, but I think that you, Mr. McKessock, should know that attempts are being made in this area. We have with us John Duggan, the former director of our institutions branch, who might want to address that in more detail.

Mr. Duggan: If you look at the kit we gave you, Mr. McKessock, there is a booklet in there entitled Program Inventory. If you have the time to look through it, I refer you to the booklet from the point of view that I think—I obviously cannot ask you to look through that now as it is quite a lengthy document—you will find in there a great number of references in the institutional area to such things as life skills programming, general preparedness, individual counselling, etc., all of which are directed towards discharge planning.

For example, and I quote from the book: "In Rideau Correctional Centre, under life skills programming, the content of the programming they offer there"—and this is somewhat typical of the programming that is offered in all of the facilities listed in the book—"includes individualized and group instruction using audio-visual tapes, role playing, guest speakers and films.

"The areas of study include personal development, relaxation therapy, communications skills, money management"—which is very important, of course—"values and attitudes, drugs and alcohol, health and nutrition, sex education, leisure education, future planning, community services and the law, job search skills, human behaviour and problem solving."

That is somewhat typical of the whole life skills programming on which we have a great emphasis in the ministry. As I was leafing through the book when you asked your question, I made 31 references in there to life skills programming offered at a variety of institutions, from the Rideau centre which I have quoted, to such institutions as Millbrook Correctional Centre, the Ontario Correctional Institute, Vanier Centre for Women, at Maplehurst Complex and at Metropolitan Toronto East Detention Centre and Niagara Detention Centre, as well as jails in Whitby, Sarnia, and Stratford. I would refer you to that book.

In addition to that specific kind of programming, we have such things as the temporary absence program, to which I think you made some reference. In 1983-84 we did send out on temporary absence nearly 17,000 people. Of these individual temporary absences granted in that year, less than two per cent were revoked or withdrawn.

Many of those temporary absences were made for humanitarian reasons, for rehabilitative purposes, for visits to home and for job interviews. In fact, many of them are linked up with our probation and parole services, where people have to report to the probation and parole officer. The individual goes for a job interview and returns to the institution. The temporary absence program very clearly is directed towards that emphasis. In addition to that, parole is a vital part of reintegrating and weaning people back into society.

I would also like to refer you to something the minister alluded to, and that is the classification study. We undertook that study last year in the institutions division. One of the recommendations we took action on immediately—on January 9, we issued a directive to all our superintendents—was aimed at the short-term inmate.

One of the things in there I would like to quote to you is recommendation 6: "The priority objective of the inmate program placement committee will be to identify inmates for community corrections placement." That is dealing with the short sentence group.

Where we used to have to classify people with sentences of 90 days and up, one of the recommendations of that classification group was to change that to sentences of 124 days. We are recognizing that people serving short sentences at the front end of the system need this kind of attention. Our evidence so far indicates that is working very well.

I think you are quite right to point out that job preparedness and discharge planning are a very essential part of correctional administration. It is something of which we are very cognizant.

Mr. McKessock: When I think of discharge planning and the success of it, I think of how many people return to the facilities. Can you tell me what percentage of the people are recidivists?

Mr. Duggan: Approximately between 60 and 70 per cent, depending on which groups you are looking at.

Mr. McKessock: Is that across the board?

Mr. Duggan: That would be a general figure, across the board. It depends on what groups you look at within that context.

Mr. McKessock: I guess this is what leads me to feel the discharge planning is not adequate, because that is part of keeping out these people. The rehabilitation programs plus discharge planning must be in place to keep these people from repeating offences.

Mr. Swart: Can I just ask something? The young offenders' recidivism rate is much lower than that, is it not?

Mr. Duggan: Yes.

Mr. Swart: Could you give us a breakdown of that?

Mr. Duggan: I do not have the figures with me. Mr. Birkenmayer might be able to help us with more accurate details, but you are quite right to say that younger offenders have lower figures.

Mr. Chairman: Mr. Swart, could we possibly wait until we get to the Young Offenders Act? You asked a number of questions.

Mr. Swart: Yes. I did not ask that question.

Mr. Duggan: If I may, Mr. McKessock, you are quite right in pointing out the recidivism rate. It is something that does concern us very much.

I would point out, however, that in the numbers we are talking about, very many of these offenders are returning more than once to an institution and serving very short sentences. It is very difficult to do discharge planning, for example, with someone who is serving 14 or 21 days, but we do attempt to do that.

A number of them will be in and out of the institution on a number of occasions. We have much more opportunity in the longer stay facilities, the correctional centres and so on, to do much more detailed, in-depth discharge planning.

Mr. McKessock: Do you have research on the effect of your programs now, as to how they have been proved to be adequate or inadequate? Have you any figures or research papers that we could have?

12:50 p.m.

Mr. Duggan: We can give you a list of all the studies we have undertaken in the research department, and then forward to you any of those studies you would want in detail, yes.

Dr. Podrebarac: If I may, further to that, I think the section in the speech dealing with the cognitive study is a significant piece of research in decision making, trying to encourage the individual to start looking at all the options.

We think that is a very important piece of research. It is going to be field tested, if I am not mistaken, in the immediate eastern part of Ontario, the Whitby-Oshawa area, where we are going to have probation officers trying to get decisions made in a more rational way, looking at all the options. We think that is a significant piece.

There is a doctoral thesis under way, and I might say it is likely going to be done by an eminent student coming from the Niagara Peninsula. I thought Mr. Swart would like to know that.

Mr. Swart: Deputy ministers come from the Niagara Peninsula, too.

Dr. Podrebarac: We hope this young lady will start to look at that voluntary switch-on on the part of an inmate, a sentenced person in an institution-like environment, as to why they change and when they change. We think that that can link very nicely with some of the—

Mr. McKessock: Why they change what?

Dr. Podrebarac: Their attitude. Why do they decide not to.

Some people say to us it is maturation. Just live with it until they are 28 and they get serious. However, we cannot live with that. We have the goals and the principles, and we keep trying. I am optimistic. I think we can—

Mr. McKessock: So if the offenders are not accepting the present program, you are telling me they must accept these programs and participate. Is that what you are saying?

Dr. Podrebarac: Not at all. I think the impressive thing for me is that nothing is really laid on. They have choices.

Mr. McKessock: That is what I mean. They must agree to participate.

Dr. Podrebarac: That is right. There is that click-in time. I think that is important.

Mr. McKessock: I guess you would probably look at it, from a ministry standpoint, that if they are not accepting it, then you have to come up with a new program which they will accept.

Dr. Podrebarac: Or also start understanding why it is they are making those kinds of decisions. I think the lack of motivation with many of them means they have despaired. They have given up. They do not think anybody cares.

This is what I found extremely impressive, that this army, which we have at work in this ministry, is really an army of dedicated civil servants who care deeply about trying to make a change and who are dedicated to rehabilitation. I do not think there is any contradiction at all in our goal statements or our assumption of responsibilities.

I think what you see in the statement is an attempt to try to achieve those goals and principles in a very difficult time. I do not deny that, but we have not given up. We have not swung with the pendulum. We have tried to stay firm in our commitment to those goals, like a lighthouse for us. It is difficult, but we think achievable. Maybe we can get into some of the details tomorrow, when we start looking at some of the issues.

Mr. Chairman: Have you anything further to add, Mr. Duggan?

Mr. Duggan: Just by way of background, if I may. The people we have received in the institutional setting are people who generally have been through a very wide range of sentencing options before the courts. We tend to have more success with the first offenders. We have some studies that show that. As far as we are concerned, we have more success with the first incarcerate.

If he is not a first offender, "very often he has been in front of the courts on anything between one and 10 occasions." So we are dealing with a fairly complex problem when he arrives at our front door. I just wanted to make that point, that we are not dealing, as often may be thought, with people who are just coming into the justice system for the first time.

Mr. McKessock: While it is on my mind, under the Young Offenders Act, if 16- to 18-year-olds are being treated differently now, would that mean that in the Don jail, the only jail I visited, they would have to go into a separate part of that jail if you were keeping them there?

Hon. Mr. Leluk: They will have to be housed in a separate facility.

Mr. McKessock: It does concern me that these people are all together. When walking through the facility, on one floor one of the offenders asked, "Are you going to build us a new jail?" That kind of indicates they intend to stay around for a while or they intend to be back.

Hon. Mr. Leluk: When we announce our plans for the facilities to house young offenders, I think that will clarify for you that very question you are raising.

Mr. McKessock: I just do not like to see them mixed with people like that.

Mr. Swart: Try to improve their life style.

Hon. Mr. Leluk: They will be housed separately from the adult offenders.

Mr. Chairman, in the short time that is remaining possibly we could switch over to a question that was raised by Mr. Swart. We have our legal counsel, Murray Chitra, here and maybe he could come forward to clarify the status of the present lawsuit that is before the courts against this ministry.

Mr. Chitra: You posed a number of questions concerning the possible timetable for the litigation that has been brought and was discussed earlier today.

The litigation in question is basically an application which has been filed in the Divisional Court, which is a branch of the Supreme Court of Ontario. Very recently, ministry lawyers and lawyers representing the applicants in this particular case met with the chief judge to discuss a possible timetable or a schedule for this particular lawsuit.

Those discussions occurred on May 31. The matter was discussed generally and a framework was set up for the way in which it would be conducted.

The first part of that involves cross-examination on various affidavits. The applicants in this case have submitted some rather lengthy and substantial affidavits and there will be the need to cross-examine on those. My understanding is that that cross-examination is going to start within the next couple of weeks.

The date I have been provided with for that to start is June 18. Following the cross-examination on the affidavits of the applicants, the ministry will in turn submit a number of affidavits in response and the lawyers for the applicants will again have an opportunity to cross-examine us on the affidavits which we have submitted.

Presumably, once these preliminary proceedings are finished, a trial date will be set in Divisional Court. To my mind, when that might be is not clear at this particular point. It will depend upon a number of factors, such as the state of the court lists at that time, the projected

length of the litigation, and whatever facilities might be available.

Mr. Swart: I recognize the sensitivity of this and I do not want to put any probing questions. Perhaps you would want to answer this, minister. In view of this, it is under the human rights section of the Constitution, am I right?

Hon. Mr. Leluk: Yes.

Mr. Swart: This could be a precedent-setting case. That would be true, would it not?

Hon. Mr. Leluk: In Canada, or in this province?

Mr. Swart: In this province and in Canada. I am not aware of what it would be in Canada.

Hon. Mr. Leluk: I believe there has been a similar suit in the province of Quebec dealing with overcrowded conditions.

Mr. Swart: Which is further along than this one?

Mr. Chitra: Perhaps I might be of assistance, Mr. Swart. My understanding is that there is a case of this kind presently taking place in Manitoba. My understanding is that it involves some allegations which have been made by some inmates at Stony Mountain federal institution in that province. I believe the trial proceedings have been completed in that case, but as of this time there has been no judgement.

To my knowledge, this case is certainly novel and new for Ontario, and I think this is not unusual, particularly in light of the fact that the provisions of the Charter of Rights being discussed again are fairly new and novel.

Mr. McKessock: Just a point of clarification, Mr. Chairman.

Mr. Chairman: Yes.

Mr. McKessock: This case is precipitated by the inmates and the employees?

Mr. Chitra: The application has been brought by eight inmates who have been, or still are, incarcerated at both the Toronto Jail and the Metropolitan Toronto West Detention Centre. In addition to the inmates as applicants, the Ontario

Public Service Employees Union is an applicant as well.

Mr. McKessock: So there are two separate applications?

Mr. Chitra: No, it is a joint application which has been brought by these eight individuals along with OPSEU.

Mr. McKessock: Before this other case in Canada, has this ever happened that the offenders and the employees got together to take an application before the courts?

Mr. Chitra: Not that I am aware of. My understanding of the case in Manitoba is that it is being brought by inmates on their own and I am not aware of any involvement by any other groups in that application.

Mr. Swart: We are at the adjournment time. Perhaps I can just ask the status of the one in Quebec and then I want to make a comment if I could, Mr. Chairman.

Mr. Chitra: I am not aware of any lawsuit in Quebec. Perhaps what was being referred to was the one in Manitoba.

Mr. Swart: Just this comment, Mr. Chairman. Perhaps we can deal with it when we convene tomorrow, but at some point we have to decide our procedure on how the discussion is going to take place, on the answers by the minister. The minister might want to go through and give all of the answers without interruptions.

I would be prepared to be accommodating, but it has to be organized some way, for the rest of our discussions. I would like to deal with that first when we convene tomorrow.

Mr. Chairman: We can deal with that. You could also possibly look at the option of having some of the answers given in writing to yourself if you like. But we will deal with that tomorrow, right after routine proceedings.

With that, we are adjourned until tomorrow afternoon after routine proceedings.

The committee adjourned at 1 p.m.

CONTENTS

Wednesday, June 6, 1984

Opening statements: Mr. Leluk	J-129
Mr. McKessock	J-143
Mr. Swart	J-146
Adjournment:	J-158

SPEAKERS IN THIS ISSUE

Kolyn, A., Chairman (Lakeshore PC)

Leluk, Hon. N. G., Minister of Correctional Services (York West PC)

McKessock, R. (Grey L)

Mitchell, R. C. (Carleton PC)

Swart, M. L. (Welland-Thorold NDP)

Williams, J. R. (Oriole PC)

From the Ministry of Correctional Services:

Chitra, M. W., Law Officer, Legal Services

Duggan, J., Executive Director, Institutions Division

Podrebarac, G. W., Deputy Minister







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Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Correctional Services

Fourth Session, 32nd Parliament Thursday, June 7, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario

Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, June 7, 1984

The committee met at 3:20 p.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (continued)

Mr. Chairman: Before we start, Mr. Swart had suggested that as we have only a few hours left, the committee may want to allocate them. Mr. Swart, I am open to suggestions as to how to divide up the remaining time.

Mr. Swart: Mr. Chairman, I do not have any particular proposal to put before the committee, but I did want to express my concern that it appeared there was a trend setting in to have a general discussion and that we would be taking up all the time on just a reply from the minister. I do not mean the minister would be taking up all the time, but the interjections would. As you will recall, it had deterioriated into just anybody intervening at any time.

It seems we should put some order in it. I would suggest, and I am just making a suggestion so we have something in front of us, that the minister reply and be given the opportunity to reply without interruption, unless some member wants some amplification or some interpretation of what he says. Then on the first vote any member of the committee could be given the opportunity to speak. At the end of that time, we can determine whether to move to the rest of the votes or to deal with everything under administration. I assume we will want to move to the rest of the votes, but I would like to see how much time is left. If you wish a motion, I would so move.

Mr. McKessock: That is fine with both of us.
Mr. Mitchell: I do not see that a motion is necessary.

Mr. Swart: Okay, never mind. I said if you wanted it, I would be willing to make it.

Mr. Chairman: I think it is only fair to give the minister the few minutes he requires to make his responses. Then we will move on as you suggested, Mr. Swart.

Minister, we have decided you will have some time to make your reply to Mr. Swart and to Mr. McKessock. We will not interject but we will possibly have some clarification as we go through the votes.

Mr. Swart: On a point of order, Mr. Chairman: I would like at this time to make two corrections to the statements I made the other day.

First, I had said one of the inspector's reports at the jail had stated there was a problem when three people were in a cell of a client urinating close to the head of the others. That was not, I believe, in the inspector's report. I know it was in the report made by the Ontario Public Service Employees Union.

The second correction I want to make is that I stated there were no other provinces with a separate correctional ministry. It is my understanding there is one in one other province, Quebec. Therefore, I want to make that correction at this time.

Mr. Chairman: Thank you, Mr. Swart. With that, Minister, you can start your replies.

Hon. Mr. Leluk: Mr. Chairman, I will start with some of the questions posed in the response of the member for Grey (Mr. McKessock) to my opening statement. I believe he asked when, if ever, the ministry would recognize the efficacy of the alternatives concept and back it with financial support.

In responding to that, I am glad Mr. McKessock has raised the issue of alternative programming. It provides me with an opportunity to clear up some misconceptions concerning the meaning of that phrase. We hear it a lot, particularly with reference to community-based correctional programs. Let me state clearly at the outset there are specific sentencing options available to the judiciary through the Criminal Code, and these should not be confused with alternatives such as the fine option program and the bail supervision program.

These sentencing dispositions fall into four categories: absolute discharge, fine, probation and incarceration. We have for some time put a great deal of effort into making probation an attractive option to the court. By developing programs such as community service orders, restitution, victim-offender reconciliation, employment or substance abuse, we enhance the value of this disposition.

Obviously, we are succeeding because 37,000 persons, or more than 80 per cent of the daily correctional work load, are on probation in the

community. Of those, 20 per cent have community service orders and 17 per cent have restitution orders. We spend more than \$5.2 million on fee-for-service contracts for these and other services.

For that 13 per cent of our daily population receiving incarceration—and I want to stress that 13 per cent—we offer another series of options. Through classification, we are able to identify those individuals who would be eligible and suitable for reduced levels of security and could, therefore, participate in community-based programs. These include release on temporary absence, placement in community resource centres and parole consideration.

As to the cost saving realized through the use of these release options, this is not as simple or as large as it would first appear. Institutional costs are largely fixed costs—I refer to staff, maintenance, hydro, heat, etc.—and, as such, are not offset by minimal changes in population. We cannot, therefore, develop simplistic equations for cost saving resulting from alternative programming, sentencing or administrative management options totally to justify their expansion.

My staff are responsible in the development and implementation of programming and we believe in the pilot projects system, the majority of which we fund ourselves, as well as in effective and timely program evaluation. Our use and expansion of alternative programming and sentencing options are evident in the growth of our community-based corrections.

Mr. McKessock: Just for clarification, since I am new at this, probation means the judge gives them an order—

Hon. Mr. Leluk: As part of the probation order, the judge orders—

Mr. McKessock: But they do not go to jail?

Hon. Mr. Leluk: These are people serving time in the community under the supervision of probation parole officers. I believe I made reference to that in my speech. On any given day I think we have 35,000 to 36,000 people on probation in this province.

Mr. McKessock: They are people who were sent directly to the community and served no time at all?

Hon. Mr. Leluk: Part of the sentencing is that they are placed on probation in the community under supervision. I will have Mr. Evans elaborate on that, Mr. McKessock.

Mr. Evans: The court has the option of using probation in a number of different ways. That is one of the difficulties, because when we lump the

use of probation, the courts can even list a conditional discharge but use a probation order as the means by which it will get supervised. That is one extreme. They can be fined and placed on probation. They can be given a probation order with a series of conditions such as restitution or community service orders. There is also the possibility of receiving a short term of imprisonment, followed by probation.

Mr. McKessock: If they receive a short term of imprisonment, I am trying to figure out the difference between probation and parole.

Mr. Evans: Probation is totally the prerogative of the court. The court would have made that decision prior to the person entering jail and the parole board would make the decision as to whether or not the person be released on parole. 3:30 p.m.

Hon. Mr. Leluk: In relation to that question, I would like to call on Dr. Birkenmayer. We have a slide here which deals with the reply and I will have him hand out copies and explain what is on the slide.

Dr. Birkenmayer: On an average day, there are roughly 44,600 clients of the Ministry of Correctional Services, 13.4 per cent of whom are in the care of an institution. This is broken down as follows: 0.6 per cent in a maximum security correctional centre; 3.3 per cent in a medium security or a treatment correctional centre—that would include the Ontario Correctional Institute—12 per cent in a minimum security correctional centre; and 8.3 per cent in a jail or a detention centre.

As part of their sentence of incarceration, we have 3.9 per cent either out on parole or in a community resource centre. The remaindermore than 80 per cent of our clients—are on probation, some under conditions of a community service order or restitution or a victim-offender reconciliation program. There are 12.3 per cent on a probation order with a condition of a community service order and 12.5 per cent on a probation order with a condition of restitution. The remaining 57.9 per cent of our clientele are in a regular probation program.

Mr. McKessock: Could you explain what a restitution order consists of?

Hon. Mr. Leluk: This is when a judge orders the offender to make restitution to the victim of his crime, through payment, donation of time or labour or working to replace personal property that has been damaged as a result of a crime.

Do you require any further elaboration, Mr. McKessock?

Mr. McKessock: No, that is sufficient.

Hon. Mr. Leluk: Mr. McKessock also asked when the success of the fine option program will be acknowledged and expanded to the rest of the program. Along with his question, I reiterate Mr. Swart's question concerning how many short-term offenders could be out of jail on the fine option program and what would be the subsequent cost saving.

As I noted in my opening remarks yesterday, the problem in incarcerating fine defaulters is an issue worth addressing. It was for this reason that we initiated the pilot projects in conjunction with our colleagues at the Ministry of the Attorney General in Niagara and in Hamilton. I emphasize that these are only pilot projects, which we intend to assess at the end of the two-year project period.

In our recent reorganization, which I mentioned in my opening comments, an evaluation unit has been established for such purposes. Preliminary data from both projects have pointed out several issues. For example, in Niagara the number of fine defaulters eligible for the program is quite small. As a result, the program is not generating enough participants at this time to make it cost-effective.

Please keep in mind my earlier comments concerning the actual cost saving in the reduction of institutional counts. As it stands now, it would be cheaper for us to pay the fines for these offenders than to operate the program.

On the other hand, in Hamilton we appear to be generating a cost-effective number of participants. There are operational procedures which still require attention, but the resolution of these problems is the reason we have allowed for a two-year pilot period, so that any potential expansion is handled in a responsible fashion.

My staff are continuing to monitor the number of fine defaulters entering our system. In 1982 there were 12,750 persons, resulting in 19,313 admissions to provincial institutions for fine default; 5.3 per cent of these admissions were for persons 16 and 17 years of age. As well, we know that 60 per cent of all fine defaulters have been incarcerated previously and therefore may not be suitable or amenable to the program.

Of those admissions, 60 per cent were for offences covered by the Provincial Offences Act. Legislation only permits a fine option for offences committed under this act, although Mr. MacGuigan, the federal Minister of Justice, has proposed legislation which would permit a fine option for Criminal Code offences. At present, such offences are not eligible.

A fine option program does offer an option to the offender to work off his or her fine through community service, thus providing the offender with the benefit of avoiding days in jail.

Although we realize a large number of the 261 successful cases in this pilot project has saved a significant number of days of incarceration, I must draw to your attention again the fact that a small reduction in an institution's population does not automatically result in a large cost saving. The largest costs in running an institution are stable costs, and these are only minimally affected by the small fluctuations in population. Thus, the cost savings attributed to the fine option program are largely overestimated.

A further question was asked by Mr. McKessock, as to whether the Ministry of Correctional Services would consider pre-trial and presentence alternatives. At the outset, let me clearly note that there is a difference between what Mr. McKessock refers to as pre-trial alternatives such as bail programs and presentence alternatives such as diversion. The act governing the activities of this ministry does not clearly provide authority for either program to be administered by my ministry.

We have some very basic concerns about diversionary programs, and these include the possibility that some projects may widen the net and criminalize persons who through the traditional justice process would not have been sanctioned. Some programs lack basic procedural and Charter of Rights protection. Presentence alternatives can become a system behind closed doors, making decisions without the kind of public and accountable discretion exercised in open court.

There is no substantial evidence which demonstrates that these programs produce a marked reduction in the level of recidivism. Obviously these are matters which rightfully concern my cabinet colleague the Attorney General. However, we will continue to study such alternative measures, particularly in relation to the Young Offenders Act, and in the areas of the province where such programs may be particularly appropriate.

Mr. McKessock further asked why the bail program was terminated in February 1984, whether the ministry has set up a research program to measure the program's success and what would indicate a significant impact. At the same time, I might answer Mr. Swart's question concerning the 12,000 people who report to the bail programs in Ontario. In Sault Ste. Marie,

11,475 effected a cost saving of \$800,000. In Kitchener there was a saving of \$1,874,708.

Mr. Swart asked why this ministry has not expanded this program. My ministry became involved in bail verification and supervision programs in an attempt to reduce the numbers of persons remanded in custody and pre-trial who were adding to the high volume in our institutions.

Research studies conducted in 1979 and 1980 by Patrick Madden of this ministry indicated there was no significant reduction in the number of persons incarcerated, pre-trial, in areas with bail programs. Conversely, there were reductions in areas without bail programs. As a result, it is difficult to illustrate any program impact.

3:40 p.m.

Again, as I said yesterday, while we recognize there may be some value in the provision of pre-trial services such as bail verification and supervision within the justice system, the costs to my ministry were considered to be disproportionate to the benefits. We concluded we could no longer provide sole funding for the program within existing appropriations. That was the reason for our decision not to renew funding for these programs.

In response to public concern, the cabinet committee on justice asked the individual Justice ministries to consider whether bail verification and supervision services were necessary and, if so, what form the process should assume and who should provide the necessary funding. The formal review process was outlined in my remarks yesterday.

As to the figures presented by both the member from the Liberal Party and the member from the New Democratic Party, I feel some clarification is necessary. Mr. Swart, I think you mentioned that 12,000 persons reported to the projects yearly. In fact, the figure you cite refers to the number of persons verified by the program; these are verifications.

There is a distinction to be made between verification and supervision. Verification is the confirmation of the various pieces of information considered relevant to the bail decision. It involves a 15-minute interview and a 30-minute check. It is a process usually conducted only once with an accused.

On the other hand, supervision is the community-based supervision of an accused, provided as an alternative to pre-trial detention. It can last for as little as three weeks to as much as nine months. We had 12,000 persons verified in this program last year and 3,400 supervised.

We recognize that the bail programs likely are diverting some persons from incarceration resulting from their inability to provide surety or cash bail, but we also acknowledge that we are supervising persons who, without the program, would have been released on their own recognizance. Thus the programs are adding to the controls placed upon these persons.

Again I want to emphasize our concern that the program may be expanding the net of social control.

Mr. McKessock: May I have a clarification? You said they may be released on their own recognizance.

Hon. Mr. Leluk: That is right.

Mr. McKessock: What do you mean? Do you mean, if they did not have this bail program, or had not been taking part in it, they could have been released?

Hon. Mr. Leluk: They are provided bail because they cannot put up either cash or surety, but in some cases I would take it—

Mr. Chairman: If you have a house or something.

Hon. Mr. Leluk: Don Evans, do you want to clarify that, please?

Mr. Evans: The courts have the opportunity of examining the person. If he meets certain criteria and they feel he would report to the court and would not be a danger with regard to failure to appear, they can release him on his own recognizance, which is like a binding over, and he does not have to exchange any money. That probably is where the majority of the numbers are with respect to the people released on bail.

Sometimes they also will add a report condition to local police forces. For example, in Metropolitan Toronto, they probably supervise in the neighbourhood of 3,000 to 4,000 people in a given year, in comparison to the number we would do on pre-trial detention.

Mr. McKessock: Before they take part in this bail program, would they not have been asked to put up bail?

Mr. Evans: Yes, they may have been.

Mr. McKessock: That being the case, if they were asked to put up bail, are you saying that this program did not warrant the cost, that it was costing maybe \$75 a day per person for this program, just as it would have cost to keep them in jail?

Mr. Evans: The other alternative might have been that he could have been released on his own recognizance at no cost whatsoever.

Mr. McKessock: That was my previous question. At the time they go on to this bail program, are they not already assessed that they have to put up money?

Mr. Evans: Not necessarily. The judge makes the decision as to whether he wants the person released under bail supervision. He may take into account that he may not have money, he may not have any accommodation, and wants some of the social services that are being provided by the bail program.

Mr. Chairman: Mr. McKessock, I hate to interject, but we did have sort of an agreement. We could get into this as we proceed with the votes.

Mr. McKessock: It was a clarification on the way the program works.

Mr. Chairman: I do not mind the odd question, but we seem to be getting more and more into it. I think, in fairness to what the committee agreed, we should try to move it along a little.

Mr. Evans: Could I just say, if Mr. McKessock at a later time wants to contact our office, we will be glad to sit down with him or his researcher and explain the program.

Mr. Swart: I was going to raise the same point of order, and again I say I am flexible on this, but I am making a note of things. I wanted to ask earlier whether Mr. Evans is going to be around for the afternoon and perhaps tomorrow so that if we make a note, we can ask these questions, because I do want to pursue some of these further.

Mr. Chairman: Yes. When we get to the programs under the appropriate votes, he will be here to answer your concerns. You can just jot it down.

Hon. Mr. Leluk: Our staff will be here. May I carry on with the answer to that particular question?

Mr. Chairman: Yes.

Hon. Mr. Leluk: The cost resulting from the days saved as a result of supervision are not nearly as grand as Mr. McKessock would have us believe. It would be impossible for the bail program to save \$73 million through avoided incarceration. The review should provide a more accurate estimate of those figures.

I believe that more or less answers the questions raised by Mr. McKessock. I do have responses to Mr. McKessock's letter to me of May 31. There were a number of questions posed, and I do not know how you would like to

deal with that. Would you like me to deal with those here, or would you like me to send that to you in the form of a letter?

Mr. McKessock: Could I have a copy of it? **Hon. Mr. Leluk:** Would that be sufficient?

Mr. McKessock: Yes.

Mr. Chairman: Would you please carry on with Mr. Swart's question.

Mr. McKessock: Can I have a copy of it today?

Hon. Mr. Leluk: Sure.

Mr. Swart posed a question. He said the briefing book prepared for the estimates debates belies statements made in my opening remarks regarding improvements in staff training and reduction in offender population counts. He points to a 2.1 per cent increase in jails, detention centres and correctional centre counts, but I believe a five per cent increase in the probation and parole counts is projected.

He questioned the provision of adequate salary dollars and asked whether staff would have to be released. I am pleased to advise the member that staff will not be released. In fact, the ministry has been awarded a total of 121 additional staff. Institutions division will have an additional 75

staff; community programs division, 21 staff; board of parole, eight staff; the Barrie Jail and Metro Toronto West Detention Centre, 17 additional staff; for a total of 121.

additional stair, for a total of 121.

Reference was made to page 10 of the briefing material. It is a summary of expenditures and estimates for the ministry. The figure of \$147,672,600, shown in the actuals column, contains salary awards, while the figure of \$148,461,800, shown in the estimates column, does not contain salary awards.

The actuals figure is 4.87 per cent higher than the estimates. If the same percentage increase is applied to the 1984-85 salaries and wages figure, it would produce an amount of \$155,691,900, an increase of \$7,230,100 over the \$148,461,800.

You will note that the ministry's salary budget was reduced by \$2,334,900 as a result of the voluntary retirement option. We were advised after the estimates were printed that \$2,110,000 of this amount had been reinstated.

3:50 p.m.

In addition to the increase in staff and the reinstatement of the voluntary retirement option, you will note that the ministry has been assigned an amount of \$200,000 to improve staff training. The executive director, institutions division, will be allocating approximately 20 of the 75 new positions for staff training purposes, which will

expand the basic correctional officer training course to five weeks.

With respect to information services, the salaries and wages in this branch have been increased by \$68,900, which has been transferred from the deputy minister's office to realign resources. A citizens' inquiry officer who was on the complement of the deputy minister's office has been transferred to information services. The remainder of the funding will be utilized to hire a bilingual public relations officer.

May I also draw to the honourable members' attention the fact that the ministry's information services branch has one of the lowest budgets in government.

Do you want to just have us go through and then we could call on our staff?

Mr. Chairman: I think Mr. Swart heard your answer. If he has no concerns, I am sure he can read the transcript.

Mr. Swart: I have concerns, but I-

Hon. Mr. Leluk: You may wish to raise those at another time.

Mr. Chairman: As we go along.

Mr. Swart: I recognize others, but I expect there will be time. We do not want to be selfish.

Hon. Mr. Leluk: We do want to respond to the questions that were raised and set the record straight.

The next question that was raised is, what is the government's philosophy and rationale for the decision to split the jurisdiction over the administration of the Young Offenders Act? A further question was, what are the ministry's plans for the Bluewater facility?

I point out first that the philosophy of the Young Offenders Act is contained in the act itself in the declaration of principles. This government has been involved in lengthy negotiations with the government of Canada and has been in disagreement on such issues as implementation dates, uniform age and the sharing of capital and operating costs.

Nevertheless, my government agrees with the principles of the Young Offenders Act. Indeed, over the many years in the development of this legislation, Ontario contributed significantly to its final form. I realize you are well aware of the federal legislation, but I wish to review briefly some of its contents.

Three of the fundamental principles of the Young Offenders Act are responsibility, accountability and the protection of society. It clearly establishes that young persons are to be held responsible for their behaviour. Neverthe-

less, the degree of accountability and the consequences should not in all instances be the same as for adults. Further, there is a recognition of the need to protect society from illegal behaviour, and this must also be considered in the treatment of young offenders. The act also establishes that young offenders have certain rights and freedoms.

Collectively, these principles establish a philosophy which is enshrined in the statute. Ontario accepts this philosophy, irrespective of which ministry is responsible for providing the service. The administration of this act is another matter which is solely within the jurisdiction of the province.

As I indicated in my opening remarks yester-day and as announced by the Provincial Secretary for Justice (Mr. Walker) in April, the government has decided to retain the distribution of responsibilities between my ministry and the Ministry of Community and Social Services which has existed for several years. It is our intention to build on the strength and experience of both ministries in implementing the Young Offenders Act.

This administrative distribution of responsibilities has served young offenders well, and it is not our intention to change it at this time. We believe this will afford us greater flexibility and an opportunity to measure the full impact of the federal legislation. We will then be able to review the existing organizational and potential alternatives.

I remind you that the potential age spread is from 12 to almost 21 years, not simply from 12 to 17 years. This is because an individual could receive a disposition up to three years shortly before his or her 18th birthday. Quite obviously, it is necessary to provide for a range of different services to respond to the varying needs represented by this broad age group.

Even considering the smaller range, from 12 to 17 years, it is not unusual in a service delivery system to establish different approaches to younger persons versus older, more independent youths, given the various stages of adolescent development.

The honourable member also inquired about Bluewater. I would like to respond to this in the context of our current planning process. First, with regard to secure custody, I can report that my ministry has drafted a report to Management Board of Cabinet. It has yet to be finalized and I cannot provide you with all the details at this time.

In general terms, however, we anticipate providing secure accommodation at the Bluewater site in Goderich and in four regional centres: west, central, north and east. We are also considering a dozen or so locations for remand accommodation throughout the province. As I indicated yesterday, we anticipate these will exist in a combination of entirely new locations, renovations to existing buildings, additions to our present institutions and prefabricated units. In some instances, administrative and support facilities will also be shared.

To alleviate the member's misgivings, the act requires young offenders to be kept separate and apart, and it is our intention to do just that. I realize I have given only some general indications of our secure accommodation plans, but these are still in draft form. One can appreciate that my cabinet colleagues must also endorse them, which they have yet to do.

With specific reference to the Bluewater facility in Goderich—I think he wants to hear this, Mr. Boudria. I know you are getting together, but I am trying to give Mr. Swart an answer and I need his undivided attention.

Mr. Swart: You may be better off without it, but go ahead.

Hon. Mr. Leluk: With reference to Bluewater, I can only advise that our intention is to convert this site into a specialized institution. We anticipate, and it is our current experience, that a certain core of young offenders will be more entrenched in illegal behaviour and/or be more problematic and difficult to handle. These individuals will require specialized staff, security and programs to meet their needs, as well as to protect society. Bluewater will therefore serve as a specialized institution for the province.

Mr. Swart: For the especially hard to handle?

Hon. Mr. Leluk: Right. The member also asked about different staffing levels at Bluewater in my ministry's planning and in the Ministry of Community and Social Services' planning. There is no difference in the staffing figures used by the two ministries. A total of 204 staff is being proposed by both ministries; 103 of the 204 are direct care staff, the balance being administrative, medical and support staff.

In preparing for open custody dispositions under the Young Offenders Act, we will be continuing our partnership with the private sector.

Mr. Swart: You said you would be having 204 by each ministry? Is that per 100 clients? What does this figure refer to?

Hon. Mr. Leluk: At the Bluewater facility? Go ahead, Dr. Podrebarac.

Dr. Podrebarac: The point we are trying to make here is that in the Ministry of Community and Social Services' planning to operate Bluewater as opposed to the Ministry of Correctional Services operating Bluewater, the dialogue has been such that we are coming at it from the same point of view. We have the same numbers and the same distribution. There really is no difference.

There seems to be an assumption at work that we are going to go in a direction entirely different from, and demand in a much more comprehensive way than, the Ministry of Community and Social Services. We are just trying to make the point clear that this is not true.

Hon. Mr. Leluk: In preparing for open custody dispositions under this act, we will be continuing our partnership with the private sector and developing the community resource centres type of residences which are operated by community-based boards. We are projecting at least as many of these residential-type beds for Young Offenders Act clients as we currently provide for our adult offenders.

We recognize there are massive training requirements for our staff as we move into the Young Offenders Act implementation. These requirements will be met by our newly integrated and expanded training branch. Many initiatives have already been taken in this regard, including preparation and circulation of a synopsis of the Young Offenders Act relevant to our work in the development of an extensive training outline.

As I have already mentioned, there is a need for linkages to ensure co-ordination, collaboration and avoidance of duplication. Staff from my ministry has been participating for several years in an interministry planning committee for this act. We have another committee with representatives of the two ministries responsible for providing the correctional services. That is, the ministries of Correctional Services and Community and Social Services. This committee will help to ensure consistency in policy and programs.

Additionally, the ministry has a task group with representation from all branches that will be involved in the implementation of the Young Offenders Act. This group has been analysing carefully the implications of the act and is putting forward recommendations and plans for implementation.

Finally, in order to ensure that all issues relating to the Young Offenders Act are ad-

dressed and the act is operationalized, we have established a Young Offenders Act implementation section. This section, composed of three experienced staff, is located within the new offender programming branch. It is to be linked to regional Young Offenders Act co-ordinators and main office specialists with the goal of translating policy decisions into operational reality.

Yesterday, the member for Welland-Thorold (Mr. Swart) said there were no other provinces which had split jurisdictions. I just want to set the record straight.

Mr. Chairman: I think he did correct that.

Hon. Mr. Leluk: I would like to point out that Nova Scotia is a split jurisdiction. The Department of Social Services is responsible for the 12-to 15-year-olds and the Department of the Attorney General for the 16- and 17-year-olds. I stand to be corrected if I am wrong, but I am told that prior to the Young Offenders Act coming in, the legislation was dealt with by the Department of the Attorney General. Then it was split.

For the members' information, Alberta moved from Social Services and Community Health to the Department of the Solicitor General for the 12- to 17-year-olds. This was done not too long ago. In British Columbia, the Attorney General's ministry, corrections branch, is responsible for young offenders.

Mr. Swart: I do not want to dispute what the minister has just said. I just want to point out my statement was that it was only Ontario which had a separate Ministry of Correctional Services. I said Quebec wanted to correct that. The other pertains to a different issue.

Mr. Chairman: That is fine.

Hon. Mr. Leluk: A further question was asked as to how many 16- and 17-year-olds are sentenced, how many are admitted to institutions and how many are sentenced to incarceration. During 1982-83, there were 3,292 16-year-old and 4,506 17-year-old males sentenced in the care of this ministry. Of these 7,798 youngsters, 4,595 or 59 per cent received just a probation order. A further 1,770 or 22.7 per cent were sentenced to a term of imprisonment. The remaining 1,433 or 18.3 per cent received a term of probation and a sentence of incarceration.

The average aggregate provincial sentence for 16-year-olds was 87.7 days. The average sentence for 17-year-olds was 86.8 days. Altogether, there were 2,960 16- and 17-year-olds admitted to institutions. Of these, 794 or nine per cent of the sentenced admissions involved

charges of homicide, serious violence or violent sexual offences.

During 1982-83, there were 226 females aged 16 and 17 years old sentenced to our institutions. They were admitted 281 times for 551 counts of offences. In contrast, there were 1,298 females aged 16 and 17 placed on probation.

Mr. Swart: Could I have those figures in some form; not necessarily right now?

Hon. Mr. Leluk: Yes.

Mr. Swart: I have several questions based on the annual report. Do you have that for the latest year? I was trying to get trends in this. However, is it correct it is not available for 1983-84?

Dr. Birkenmayer: It is just coming off the computer now. It is a lengthy process. It will be about another week before they are available.

Mr. Chairman: Could we have that forwarded to Mr. Swart when it becomes available?

Dr. Birkenmayer: Absolutely.

Dr. Podrebarac: In keeping with the question, we can talk to you again about where some of these are housed. Dr. Birkenmayer has tried to assist you in seeing the breakdown. He has brought along another slide and some other support materials and, if you would like, maybe we could get to that in a moment.

Hon. Mr. Leluk: We will call on you shortly. I just want to finish this answer. Where are the 16- and 17-year-olds housed? The answer is that during May, 1984, all institutions were canvassed to determine the status and number of 16- and 17-year-olds. On average, there were 315 males in jails and detention centres. Of these, 147 or 47 per cent were remanded in custody. There were an additional 213 in our correctional centres.

Altogether, there was an average of 528 males aged 16 and 17, and 15 females of the same ages in our institutions. One was at Vanier; the remainder were in jails and detention centres. Seven, or 50 per cent, were in on remand.

Maybe I could call on Dr. Birkenmayer to come forward with the slides and give us a visual breakdown.

4:10 p.m.

Dr. Birkenmayer: This slide is analogous to the previous one I discussed. It breaks down the location and sentence type of the 16- and 17-year-olds on one side and the 12- to 15-year-olds on the other side. It represents an average population. Roughly 4.8 per cent of the 16- and 17-year-olds are serving a sentence of incarceration; 1.5 per cent are remanded in custody; about

0.1 per cent are in a community resource centre; two per cent are out on bail, and 1.6 per cent are on parole.

Almost 90 per cent of the 16- and 17-year-olds in the care of this ministry are on probation or in a

community program.

On the other hand, of the 12- to 15-year-olds, only 62.9 per cent are on a probation program. The rest are either in an institutional/residential-type setting, or a post-institutional environment. I wonder if this is clear.

Mr. Swart: Is the aftercare, as you term it here, not available to the 16- and 17-year-olds?

Dr. Birkenmayer: Aftercare is analogous to-

Mr. Swart: Group home?

Dr. Birkenmayer: No. It is analogous to parole, and 16- or 17-year-olds in the adult system are on parole only to the expiry of their sentence, whereas 12- to 15-year-olds can be on aftercare until age 18, at which point they are terminated.

Mr. Swart: You have only 1.6 per cent of the 16- and 17-year-olds on parole?

Dr. Birkenmayer: On a given date?

Mr. Swart: On a given date. There is no equivalent for the younger ones, because they are under 16 and not really sentenced in the same way?

Dr. Birkenmayer: They are wards of the crown.

Mr. Swart: Yes.

Dr. Birkenmayer: If they are not in a residential setting, they could be in a group home on aftercare, or they could be back with their parents.

Mr. Swart: There is a different method of dealing with them and that is the reason for this.

Dr. Birkenmayer: That is right. The important thing to note is that a much larger proportion of 16- and 17-year-olds are on probation or community-type sentence to begin with.

Mr. Swart: Because they have not been sentenced?

Dr. Birkenmayer: They have been sentenced to probation.

Mr. Swart: But when the new act is effective, although the percentages may be different for the 16- and 17-year-olds, the actual programs will be the same for them. Is that correct?

Dr. Birkenmayer: Between 12 to 15 and 16 and 17?

Mr. Swart: Yes.

Dr. Birkenmayer: There will have to be some changes in the programs to accommodate their various developmental needs. For instance, a child under 16 is required by law to attend school. A youth over 16 is not required by law to do so. He may not wish to go to school. Other alternative programs will have to be put in place to take care of differences such as these.

Similarly, there are other developmental needs of an 18- or 19-year-old youth, who may be in the care of this ministry, as opposed to a 12-year-old.

Mr. Swart: Let me rephrase my question. I may not be phrasing it properly because I do not understand this situation totally. There will not be, in the same sense, the parole there is now for the 16- and 17-year-olds because they will not be sentenced in the same way as they are being sentenced now, as adults.

Dr. Birkenmayer: Precisely. Under the Young Offenders Act, it is a definite sentence and you need a traditional review to alter the length of the sentence in a residential setting. So there will be that difference.

Mr. Swart: If I were to see this two years from now, after this comes into effect, you might have 15-, 16- and 17-year-olds and 12- to 15-year-olds listed separately, to give us different statistics; but, as far as the programs are concerned, they would basically be the same.

Dr. Birkenmayer: Oh, yes.

Mr. Swart: That is what I am saying.

Dr. Podrebarac: Pardon me, Mr. Chairman, but if you take the previous slide you received and turn it on its side, then refer back to a work I think you used in reading the goals and principles earlier, Mr. Swart, that idea of a continuum, then you can see there is full range of options available for placement. So the range will always be there. What I think is fascinating when you look at the two columns as they currently exist, in the Ministry of Community and Social services now and the Ministry of Correctional Services now, there are interesting parallels here.

You will also notice that we, at the present time, have two thirds of the population, and I think it is also important to point out that it is the most difficult population in our view. I think it is also important to point out that we handle it very well, with humane, well-trained staff.

Mr. Chairman: Thank you, Dr. Podrebarac. Will you continue, Minister?

Hon. Mr. Leluk: Thank you, Mr. Chairman. Mr. Swart also asked a question about the recidivism rates. The overall return rate for males released from an institution in 1978-79 was about

54 per cent for a period up to and including June 30, 1982. The return rates for males with no prior history was 41 per cent, whereas the return rate for men with a prior history was 64 per cent. The return rate for 16- and 17-year-olds was 75 per cent, with an average of 3.26 recontacts.

The overall return rate for probationers was 32 per cent. The return rate for 16- and 17-year-olds was 38 per cent, with an average of 2.4 contacts.

Now to put these data into context, it should be noted that a random sample of 16- and 17-year-old male chronic offenders showed that 45 per cent had been in training school and 95 per cent had been on juvenile probation.

A further question was asked: "What, in the opinion of the ministry, is the cause of the fluctuations in the remand populations of our institutions?" Mr. Swart is quite correct in observing the rather erratic pattern followed by our average remand population. The statistics for the past three years show a low of 1,350 remand inmates on average during July 1983 and a high of 1,850 remand inmates during October 1982.

The low months for each year are June 1981, June 1982 and July 1983. The high months are November 1981, October 1982, February 1983 and March 1984. This trend does indicate fewer remands during the summer months, and this may indicate that defence lawyers and accused persons try to avoid court hearings during this period.

An increased number of cases being heard on election in county and district courts also means that such cases are put over to the spring and fall assizes and remanded into custody at that time. A traditional decrease in remands during December could be attributed to a tendency to leniency by court officials during that particular holiday period.

My research branch advises that remands have always fluctuated, not only on a monthly basis but from year to year. The reasons have never been established by any accredited research. However, at this very moment representatives from this ministry who are attending the Canadian heads of corrections meeting are discussing with their provincial counterparts the feasibility of a cross-Canada survey on remands to be conducted by the Canadian Centre for Justice Statistics.

As the member is aware, we have no control over our intake and cannot release remand prisoners to any alternative programs without the authority of the courts. Remand prisoners can be either awaiting trial and thus not yet convicted, or awaiting sentence. In either case, we can only

involve them in programs if they volunteer to participate and many of them choose not to take advantage of such opportunities.

When they do, the court is advised, and the terms of the remand may be changed to allow release on bail to a community resource centre or some other alternative program.

4:20 p.m.

The result is that in the calendar year 1983, 60 per cent of all remands were released within one week with an average stay of only 2.93 days. The remainder of the remand population spent an average of 28 days in custody.

From these figures, I am sure that the member can see that we are pursuing effective actions in

dealing with the remand population.

Further questions were asked as to how many additional beds are being added to the system this year, apart from those who are being double bunked. How many of the 500 beds which are planned under the Board of Industrial Leadership and Development program, the capital accelerated works program, are double-bunked accommodation?

Yesterday the member requested information concerning additional bed space which my ministry has been able to create over this past year. He specifically requested to know how many additional beds are being added to the system, apart from those which have a second bed in a cell.

I would like to go on record at this time by stating that the ministry does not guarantee that inmates entering the system will be given single-cell accommodation. At this time, 20 jails, eight detention centres and one correctional centre utilize some form of two-person cellular accommodation. The total number of two-person cells in provincial institutions is 1,197.

The following points should be noted about two-person cells. First, it allows some inmates to remain in their home community. It reduces the likelihood of suicide attempts. It reduces the necessity of major capital expenditure to build a large metropolitan detention centre, the cost per cell being in the \$100,000 area.

An alternative to placing the second bed in the cell would be to have an inmate, who would have been in the second bunk, sleeping on a mattress on the floor of the cell during high count periods.

Inmates are only in the cells for limited periods of time, from approximately 8 a.m. until the lights are out at 10 p.m. Inmates are generally accommodated in a dayroom area at other times.

In the past year, the following beds were added to the system. At the Ontario Correctional

Institute in Brampton, 22 single beds were added to dormitory settings. At the Metropolitan Toronto West Detention Centre, 32 beds were added in eight, four-person units. At the Barrie Jail, 14 single beds were added in a dormitory setting.

At the Peterborough Jail, 10 beds were added with the installation of the ministry-designed and built pre-fab jail unit. This is a five-cell unit designed to accommodate two persons per cell.

During 1982-83, the ministry added single cells or dormitory bed spaces as follows: at the Mimico Correctional Centre in the west end of Toronto, 150 beds in dormitory settings; Burtch Correctional Centre in Brantford, 10 beds in dormitory settings; Windsor Jail, 12 beds in dormitory settings; Guelph Correctional Centre, 40 beds in dormitory settings; Millbrook Correctional Centre near Peterborough, 36 beds in single-cell accommodation; Hamilton-Wentworth Detention Centre, 60 beds in single-cell accommodation.

The total of these figures indicates that in the last two fiscal years the Ministry of Correctional Services has added 376 single-cell or dormitory bed spaces.

Further to these additions, in the last 12 months a total of 150 beds were added to the system by converting one-person cells into two-person cells at the Metropolitan Toronto East Detention Centre, the Hamilton-Wentworth Detention Centre, the Quinte Detention Centre and the Wellington Detention Centre.

The member requested information concerning how many of the 500 beds planned under BILD are two-person cellular accommodation. I would like to take this opportunity to give him a complete breakdown of the planned allocation under these projects.

All of the following projects have been specifically designed to accommodate the number of people indicated per unit.

At the Metropolitan Toronto West Detention Centre, the new remand centre will accommodate 192 persons with eight segregation cells, 24 two-person units and 36 four-person units.

At the Sault Ste. Marie Jail, a total of 44 beds will be added. There will be 18 double male units, four double female units and five segregation cells.

At the Rideau Correctional Centre at Burritt's Rapids, a total of 80 beds will be added. There will be 64 beds in a dormitory setting, 10 segregation cells and four four-person units.

At the Maplehurst Complex in Milton, a total of 79 beds will be added in dormitory settings.

At the Brantford Jail, 16 two-person units will be added, for a total of 32 beds.

At the Cornwall Jail, Pembroke Jail, and Brockville Jail, one of the ministry's pre-fab jail units will be added to each. This unit will provide five two-person units, for a total of 10 beds at each location.

Finally, at the Sudbury Jail, 32 two-person units will be added, for a total of 64 beds.

I trust that this response to the member's queries is sufficient concerning these recent developments.

Mr. Swart also stated that he read several excerpts from the public institutions inspection panel reports for the Metropolitan Toronto institutions and the Waterloo Detention Centre. I would like to take this opportunity to address the issue of these reports.

Concerning the Waterloo Detention Centre, I would like to quote further from the panel's report on November 18, 1983: "Although this facility is antiquated, it appears to be put to its optimum effective use. The overcrowded conditions on weekends are a main source of concern. This is handled without difficulty by casual, part-time help and also by transfers to other centres.

"There appears to be a very high morale among the staff members. We were impressed by their attitude and concern for the inmates and we found no prisoners improperly detained.

"It should be noted that the original building, which is now the Waterloo Detention Centre, was built in 1941. However, in 1977 this building was completely refurbished and opened in 1978 as a new detention centre."

I would like to inform the committee members that the negative comments the member for Welland-Thorold quoted from recent panel reports are not representative of the feedback which my ministry receives.

I want to quote from a few recent reports.

Burtch Correctional Centre: the panel felt that this was a well-run institution with an opportunity for inmates to upgrade themselves.

Quinte Detention Centre: "We found the facility in excellent condition."

Monteith Correctional Centre: "All shops have been well posted with safety signs and appear to be well-enforced, with safety equipment readily available. The programs are well up to date and cover a wide range of trades and subjects. The staff all appear to be dedicated, conscientious, concerned and courteous and very well trained in the areas of their duties.

"It was noted that all buildings were clean, warm and extremely well kept. The prisoners observed appeared clean, attentive and well disciplined.

"During our visit, no discontent was noticed among the inmates and our congratulations to the entire staff of the Monteith Correctional Centre."

The Niagara Detention Centre: "We were impressed by the security and operation of the centre and found the condition of the buildings and the grounds in excellent condition.

"With the exception of minor faults in the cleanliness of stairwells and the glass partitions, we found the centre to be clean and bright."

Thunder Bay Correctional Centre: "The farm area seems to be operated quite efficiently. It is kept up very well by the staff and inmates. Even with the expansion of this area, everything was clean.

"In the dormitory building, the upkeep is exceptional. The staff and inmates do a very good job in cleaning and caring for the building.

"The kitchen area was clean, bright and very efficient. The menu seemed to be very nutritious. The meal the panel received was very good.

"The correctional centre was very impressive and the staff was very co-operative and the morale seemed very high."

Vanier Centre for Women: "The facility appeared to be clean and well maintained in all respects. All educational programs are adequate and well used by the residents. The residents that the panel viewed were either being taught a skill or gainfully employed in various types of work. The staff appeared to be well qualified and had a good rapport with the residents."

4:30 p.m.

The ministry values the community input provided by the public institutions inspection panels. Each of the panels' recommendations is addressed by the administration of the institution and the response to those recommendations is forwarded to the Ministry of the Attorney General.

The question was raised as to how many inmates were released on parole, and of that number how many were serving a sentence of less than six months. A further question was raised as to what is the comparison between the number of parolees and the number of probationers.

The Ontario Board of Parole has parole jurisdiction over all inmates serving a sentence in our provincial correctional institutions. Those inmates serving a sentence of six months or more are automatically scheduled for a parole hearing

before the board. Those inmates serving a sentence of less than six months must apply in writing requesting a parole hearing.

During the fiscal year 1983-84, there was a total of 3,609 parole releases, of which 2,805 involved sentences of six months or over and 804 involved sentences of less than six months.

In response to the second part of the question, during the fiscal year 1983-84 the Ontario Board of Parole granted 3,609 parole releases while the courts placed 40,699 on probation. On March 31, 1984, there were 1,611 parolees under supervision in the community and 37,124 probationers under the care and supervision of our probation and parole staff.

Mr. McKessock: Mr. Chairman-

Hon. Mr. Leluk: I am almost finished.

Mr. McKessock: Excuse me. I am sorry, Minister, I did not want to interrupt but I have to go and speak on the private member's bill.

Mr. Chairman: I understand.

Mr. McKessock: I will defer to my colleague while I am gone.

Mr. Chairman: Thank you very much, Mr. McKessock. Please continue, Minister.

Hon. Mr. Leluk: A request for information pertaining to employment of women in this particular ministry was received from a Mr. Fred Troina, a researcher in your office, Mr. Swart. I am certainly pleased to hear of your interest in this matter, as the provision of employment and staff development opportunities for women is an area on which we have placed a very high priority. I am pleased to report we have achieved significant results.

The Ontario Ministry of Correctional Services, I am proud to say, and I said this yesterday in my opening remarks, is a leader in North America in the provision of equal opportunities for the employment of women in the traditionally male-dominated occupations of correctional officer and probation and parole officer.

Since the affirmative action program was introduced in 1975, the number of women employed as full-time classified correctional officers has more than doubled, from 174 to 359. Of these over 200 are employed in institutions housing male inmates, compared with only 16 women employed as correctional officers in male institutions in 1975.

In addition, 253 of the ministry's 600 parttime unclassified correctional officers are female. In total, 18.4 per cent of the ministry's full-and part-time correctional officers are women. In the field of probation and parole services, our achievements are even more remarkable. Since 1975, the number of females employed as probation and parole officers, all of whom have mixed male-female case loads, has increased almost fourfold, from 39 to 153. This represents over 39 per cent of the total number of employees in this category. More significantly, almost 60 per cent of the new recruits into this field are now women.

During last year's estimates, in response to a question posed by the member for Riverdale (Mr. Renwick), we were able to report that the wage gap between the average salaries of males and females employed in the Ministry of Correctional Services had decreased for the third straight year. I am very pleased to report that in 1984 this gap has narrowed by a further 1.1 per cent.

The average salary of females employed in my ministry is presently 87.9 per cent of the average salary of male employees; the narrowest wage gap in the Ontario public service. The average salary of women in the Ministry of Correctional Services is \$23,117 per annum, compared to \$21.868 service wide.

With reference to the development of programs for female staff, I have recently received a copy of the third annual summary of staff development in the Ontario public service. I note with interest and pleasure that this report indicates there was a 59 per cent jump in the participation rate of my ministry's female staff in staff development programs from 1981-82 to 1982-83.

The rate of increase for the latter year was 142 per cent, which reflects the involvement of a significant number of female staff in more than one training program. This rate compares favourably with those of other ministries.

In addition, our affirmative action program manager, in consultation with managers throughout the ministry, is continuing to improve the potential for advancement of our female staff. These initiatives include the development of a career counselling package for women, the presentation of workshops and lunch-hour sessions for women managers, the provision of a minimum of 37 accelerated career development experiences for women during this fiscal year, and the development and distribution of an information package for female employees in technology-related occupations.

A policy statement on the utilization and assignment of opposite-sex correctional officers, the first of its kind in North America, has recently been developed by my ministry and is presently

being implemented. Combined with other initiatives and our firm commitment to the affirmative action program, we anticipate that this policy will greatly improve the career opportunities and advancement of our female staff, the increasing presence of whom in our traditionally male-dominated field has had beneficial effects.

Down to the last question, which was actually more of a statement, that victim-offender reconciliation programs are run by Quakers.

Mr. Swart: I am wondering what sort of success rate we are having with the program. Is it something that is going to grow?

Hon. Mr. Leluk: This program, as you probably know, began in Kitchener in November 1979. It attempts to resolve a conflict between the offender and the victim of a criminal offence through the process of reconciliation.

The immediate task is to correct the harm done in a manner that is satisfactory to both the victim and the offender. The function of the third party mediator is to assist the victim and offender. There are presently 15 of these programs operating in conjunction with contractual community service orders and restitution programs.

I do not know if that adequately answers the question.

Mr. Swart: Again, I do not want to interfere with the program—

Hon. Mr. Leluk: That is all right. Carry on, if you wish.

Mr. Chairman: We can spend a few minutes on it. Mr. Swart.

Mr. Swart: I want to know if you have any statistical information proving that this program has been beneficial with regard to repeaters; whether the fact that criminals are exposed to victims has had any effect—

Hon. Mr. Leluk: I would like to call on Don Evans to respond to that.

Mr. Evans: The basic problem we face is that the number of people placed on this particular type of program is really quite small. To make any large generalizations would—

Mr. Swart: I realize that.

Mr. Evans: However, the trends are rather interesting. A research study undertaken by the University of Toronto did not substantiate that the Kitchener program has had any significant impact on recidivism rates.

4:40 p.m.

In fact, one of the difficulties that emerged from it was that it seemed to be a better payoff for insurance companies than for the victim. That is one piece of research, again on a very small sample, so I can only draw a trend analysis from it.

On some other work that we have had a look at, we noticed that there seemed to be an actual increase in recidivism rates for the simple reason there was a tendency to violate people for wilful default of the arrangement that they came to between the victim and the offender. So what you had happening was the inability to fulfil the agreement and hence a court order for further action, usually incarceration.

That would skew any kind of recidivism study, because it would have meant that certainly the victim was getting justice; if his money was not being paid, he was at least getting satisfaction that some action was being taken.

Again, I want to reiterate that the sample number of people being placed on victim-offender reconciliation programs is so small that you cannot draw any conclusive evidence. The bench does not seem to be using it to a large extent although, as you noticed from the minister's statement, we continue to try to encourage this because we would like to have a wider base to find out whether we can draw any substantial conclusions.

Mr. Swart: There is no indication at this time that it has really any beneficial effect on the person who committed the crime.

Mr. Evans: It may have in some cases of specific individuals, but on any kind of larger sample size, it is hard to draw any conclusion that would have any benefit at this stage. I would not want to rule it out.

Mr. Swart: Would it be, in some instances, a pretty traumatic experience for the victim? Do you find that it does damage, in fact, in this respect?

Mr. Evans: It could do. However, the victim and the offender must both agree, must both give their consent, so there is no coercion at that point. In fact that is why the program is not so terribly successful at getting people together. A lot of people choose not to go that route for the very reasons I think you are enunciating.

Mr. Swart: Do the victims choose that route sometimes simply for the opportunity of getting at the perpetrator of the crime?

Mr. Evans: We have had no indications of that. People who do choose to do it seem to be motivated by a desire to see something good come out of it rather then vengeance. I guess that is what you are getting at.

Mr. Chairman: Thank you, Mr. Swart, thank you Mr. Evans. Have you concluded, Minister?

Hon. Mr. Leluk: Yes, that concludes my response to the critics.

On vote 1701, ministry administration program; item 1, main office:

Mr. Chairman: Mr. Boudria, you indicated you had a question before we move on.

Mr. Boudria: Thank you, Mr. Chairman. I have a few questions on vote 1701. It will not take too long.

I note in his Correctional Update that the minister has been touring the eastern region recently. I just want to let him know that he should let us know when he comes to our riding. We cannot invite you for coffee unless you tell us you are going to come, Minister.

I noticed that Mr. Runciman, Noble Villeneuve and all the other good Tories around my part of the province seemed to be aware of your visit. You should give us a call too, you know.

We like to have you visit. You are a very nice chap and we certainly like it when you come to visit the facility you have. It helps to keep you informed of the goings on in regard to the needs of our region. Do give us a call if you show up. We would appreciate that.

Hon. Mr. Leluk: I will keep that in mind during my next visit.

Mr. Boudria: Thank you.

Mr. Swart: Did I hear that as a commitment? Interjections.

Mr. Boudria: Yes. I am not saying that your visits are always that welcome in the middle of an election campaign, but otherwise we certainly like to have you around.

I wanted to ask a question on the relationship between the ministry and the Office of the Ombudsman. Earlier this year, as a member of the Ombudsman committee, I had an opportunity to visit, along with some of my colleagues, the Monteith Correctional Centre. It was about 45 below zero that day, so needless to say we did not visit the outside that long.

I thought it was a very interesting facility. Not being one who has been around those facilities in the past, the one thing that really shocked me was the young age of the inmates. That really surprised me. Somehow we do not picture in our own minds-perhaps we should, but we do not-inmates being four feet, 10 inches, or five feet, two inches, and looking as if they were about 12 years old. Of course, they are not; they are at least 16. It is something I thought about for

days after I had visited the facility. However, that is just an observation.

The question I have is the following. Before we visited the place we were told there were all kinds of signs indicating how to avail oneself of the services of the Ombudsman–I am speaking now of an inmate who feels he has been unfairly treated and so forth–and that these blue envelopes in which to lodge a complaint were readily available to the inmates.

That was not the case. As a matter of fact, except in the jail area there was not one sign in the correctional facility itself explaining how to avail oneself of those services.

When you are responding to that maybe you can respond to another complaint. Some of the inmates indicated that once you had asked for a blue envelope and were given the blue envelope, of course, immediately afterwards you received a visit from one of the officials to convince you not to send it out and that kind of thing.

I just want some sort of input from you concerning those remarks that were made by the inmates. I recognize the difficulty. On the one hand one says, "If someone is writing to the Ombudsman, it should be very confidential." On the other hand, of course, your staff probably says, "If we can fix it right here, why not?"

I am not even sure myself which of those two views I agree with. It is a fine line. As long as the process is not used to intimidate the prisoner into not applying, I suppose I have no objection to the fact that officials of the place would be addressing the problem in that manner.

There is another concern, though; perhaps this one should be addressed more to the Ombudsman than to you, but I have made these comments to the Ombudsman. I think those little, blue, pre-printed envelopes addressed to the Ombudsman's office are a mistake. All blue envelopes are created equal in the sense that if an inmate puts something in a blue envelope and sends it out, there is nothing to stop any official from opening it, looking at it and putting it in another blue envelope, because they are all the same.

I recommended that they do away with those blue envelopes and provide a little instruction sheet telling the inmate to write the proper address on the envelope himself so at least the person receiving it can recognize the handwriting which appears on the letter inside the envelope.

I also recommended to the Ombudsman's office that it should have a procedure whereby a person signs his name across the seal; that, as far as I am concerned, would be a very good idea. Of course, this has nothing to do with your ministry.

You did not design those envelopes; they merely were sent to you.

I just wonder about the lack of proper signing and those kinds of things and generally about the procedure by which you deal with the Ombudsman at that facility and others. I wonder if you can give us some information.

Hon. Mr. Leluk: I am going to ask Mr. Duggan to respond to that, but before he does, maybe I can make a few general remarks.

I too have visited the Monteith Correctional Centre, but I cannot vividly recall it. I know there are some signs posted in every institution in our system that provide information to inmates concerning the manner in which they can approach the Ombudsman's office.

I do want to point out to you that I am somewhat surprised when you say that correctional staff would discourage or try to dissuade inmates from writing to the Ombudsman's office. In the three years and two months I have been here as minister I have never had it brought to my attention that this is the case. I am totally confident that our staff would not try to and would have no reason to intercede—

Mr. Boudria: I do not think I used those words.

Hon. Mr. Leluk: -in any kind of mail or information that an inmate would like to send to the Ombudsman's office.

Mr. Boudria: With all due respect, I do not think I used the words "discourage" or "dissuade," and I specifically expounded on that to make sure it would not be misinterpreted. I even said I was not sure. What I did say to you—

Hon. Mr. Leluk: I think the implication was there that—

4:50 p.m.

Mr. Boudria: Oh, no. Why do you not listen? I will just take a minute to explain it to you.

I said that what was happening was that the officials of the place are visiting the inmate to see if they could fix the problem instead of sending it to the Ombudsman. That is not necessarily intimidating the inmate, and I did say that if that process was not used in an intimidating fashion, I did not object to it.

I did not—and if you read Hansard you will make sure—accuse your staff of doing anything wrong. I am not sure that it is wrong.

Hon. Mr. Leluk: I might also point out to you that mail sent to the Ombudsman's office is not opened or tampered with. If I am wrong, Mr. Duggan can correct me, but it is my understanding that such mail is not opened.

Would you like to carry on, Mr. Duggan?

Mr. Duggan: Thank you. May I ask Mr. Boudria if it was reported to the superintendent or the Ombudsman's representatives who were with you on the visit that this was missing, that the signs were not being displayed?

Mr. Boudria: Yes, and we were told they would immediately put up new ones.

I can understand some of the problems. Sometimes the inmates get upset with something and if a sign happens to be on the wall, perhaps they remove it themselves.

There were two of these large day areas or whatever you call them inside that institution, however, and in neither of those areas were there any such signs. There was another area right beside one of them, the one where the prisoners eventually come in. Do you call that an admission area?

Mr. Duggan: Yes.

Mr. Boudria: There was none in that area, either. I would have assumed that particular area, because it always had guards around it, would have been a good place to have it, right there as you came in, with a lesser chance of the sign being tampered with.

I pointed that out to the staff there, who said: "There should be some here. We cannot understand why there is not, and we will try to make sure that in the future the signs are more evident than they are now."

It is unusual, because they knew we were coming, and one would have thought they would have checked to make sure they were there, if they were not before.

Mr. Duggan: I certainly will look into that matter. It is quite clear in our own manual of standards and procedures, as the minister has indicated, that signs are to be displayed in a prominent area, and you will find them displayed in the admission and discharge units in every institution, so I am surprised to hear they were not displayed, as you have indicated.

Ombudsman's investigators are into our institutions almost on a daily or weekly basis, and they would be very quick to point out to us that we were remiss in not having displayed that information.

Also, our institutions are inspected at least once a year by the inspections and investigations branch. The inspectors submit a report in very fine detail on all aspects of the administration of the institution, including such things that the inmates' information booklet, which is reduced in size, should be displayed in all living units. It

contains information about writing to the minister, to members of Parliament, to the Ombudsman and so on. That is inspected regularly.

I can only say I am surprised to hear you found those things missing in this instance. We are very much on the ball in that regard as a rule and I shall certainly look into it.

Mr. Boudria: There were 12 or 13 of us there, plus the staff of the Ombudsman. There was a busload of us visiting the institution, so it is not just an observation that I personally made. Everyone became aware of it and asked, "Where are the signs?"

Mr. Chairman: Mr. Duggan, going back to what Mr. Swart was talking about, in the recent annual inspection we just had, was there any mention in that report that those signs were not there? Was there a complaint?

We had a committee that just went around the whole province. Did anything in that report refer to this matter?

Mr. Duggan: Not to the best of my recollection. That is why I am very surprised to hear this.

Mr. Chairman: So it might have been an isolated incident in this particular case.

Mr. Duggan: Yes. I would like to stress that we enjoy almost daily contact with the Office of the Ombudsman, either at the field level or at the main office level. There is a great deal of correspondence and discussion between us and I can assure you that office would be very quick to let us know if we were being remiss in that regard. It is the first time I have heard a complaint of that nature and I will certainly look into it.

Mr. Boudria: In so far as how the facility looked, I was impressed. We were served what I thought was a very nutritious meal and we were all asking the inmates if this was a typical noon meal, and they said, "Oh, yes, this is what we have."

Mr. Duggan: It was not being put on specially.

Mr. Boudria: Yes, that was the question, of course. We were there to check, so we were checking.

Mr. Duggan: Right.

Mr. Boudria: They said, "No, this is our usual food."

I must say I thought the milk was rather light and watery, but I am told that is the way powdered milk looks all the time. It was the first time I ever had the opportunity, if I can use that word, of drinking powdered milk. However, the rest of the meal was truly quite good and the inmates indicated it was a typical meal.

It was a very cold day, but it was not cold anywhere in the building or anything like that. There was a lot of frost on certain doors, but at 45 below zero that is to be expected. The facility looked quite good overall.

Perhaps we could get some response on the actual procedure of how staff deals with the matter once there is knowledge that an inmate has corresponded with the Ombudsman. What happens then?

Mr. Duggan: Perhaps I could just read from the manual on the instructions to staff. "Mail addressed to an inmate, probationer or parolee from the office of the Ombudsman"—this repeats what the minister said—"must be delivered unopened to the addressee." Similarly, mail that goes out of the institution is unopened. We do not open it in any way, shape or form.

We have had very few complaints from the Ombudsman's office over the years. In the last number of years, there have been no complaints at all about the transmission of the Ombudsman's

correspondence.

We quite often discuss with the Ombudsman matters that have arisen from his investigations. For example, in many of their final reports they have made recommendations regarding certain investigations they have made, and we follow up on that sort of action. There is no difficulty with the transmission of letters to and from the Ombudsman's office or with visits to and from the institutions by his investigators.

Mr. Boudria: That was not really what I wanted to know.

Mr. Duggan: Are you referring to the question of resolution of problems at the institution?

Mr. Boudria: Yes. One prisoner, for instance, expressed the view that nobody else should know about his correspondence with the Ombudsman. I explained that was not possible because the first thing the Ombudsman does is go back to the institution to find out its side of the story. That is the job of the Ombudsman and obviously that has to be done.

You cannot get somebody to adjudicate the whole thing in secrecy, because otherwise you do not have an Ombudsman process. The Ombudsman process is specifically to listen to both sides of the story and then to adjudicate in a way that is fair and reasonable. It has nothing to do with how the law works; it is just fair and reasonable. That is why it is an Ombudsman as opposed to a judge. I served on the committee for some time and I

understand a bit of the process the Ombudsman has used in the past.

To repeat myself, I am not suggesting that it is necessarily wrong for officials of an institution to go to see a prisoner and say: "You are writing to the Ombudsman. Do you think we could settle this before you send the thing out?" That is provided it is not used to say, "You realize that if you send this thing out you are going to spend five days in the hole." That would be wrong. Provided it is not used in an intimidating manner, it is not necessarily wrong.

I just wanted to know if you had guidelines as to how you deal with that kind of thing. Once an inmate has written to the Ombudsman, how is that dealt with internally at that point, apart from

the fact you do not open the letter?

Mr. Duggan: We do not know what is in the letter, of course. What will often happen is that, when the Ombudsman investigates the incident, he may well say to the person who is complaining, "Look, you are complaining about the toast being cold when it is served." That is a complaint we have often had. If that were the nature of the complaint, the investigator might well say to the complainant: "How about if we discuss this with the superintendent? The matter should be easily resolvable and we can deal with it that way."

That is often the way it is dealt with.

The Ombudsman's investigators will also often act as middlemen and point out to complainers: "You could have resolved this by going to the superintendent or by taking some other course of action. You did not need to write. It could have been dealt with in some other way."

You are quite right to say we do not know what is in the complaint. If an inmate has been complaining to us, obviously we have some idea of what he is writing about, but we have no absolute knowledge at all.

5 p.m.

Mr. Boudria: As far as the envelopes and all that are concerned, to ensure that confidentiality is respected I suggest to the Ombudsman that he should redesign the process for institutions, because I do not think at present it is a very good method; it does not lend itself to very much confidence.

Mr. Duggan: We are in the process of redesigning it now.

Mr. Boudria: It has nothing to do with you. I think it is the Ombudsman's procedure that is rather—

Mr. Duggan: We are in the process of redesigning that process with the Ombudsman's office, yes.

Mr. Boudria: Good. I am glad to hear that. Of course, again, I know this is not the fault of your ministry.

Mr. Duggan: We do what we are asked to do.

Mr. Boudria: These are the Ombudsman's envelopes, but perhaps some input on your part would be in order, and I understand now that this is what you are doing.

May I ask a couple of questions on Frenchlanguage services, Mr. Chairman? I understand that is under the same vote.

Mr. Chairman: Yes. We are on a wide topic here, main office. We will allow it.

Mr. Boudria: A wide topic? I think it is under this vote nevertheless. Whom do I ask?

Hon. Mr. Leluk: What specifics do you want to ask with respect to French-language services?

Mr. Boudria: I just want to know, again for the purposes of the inmates, how your ministry is equipped to handle francophone inmates in various institutions. The only experience I have had, recognizing that it is not a very big one, was in visiting just one institution, Monteith.

The members of the committee-the member for High Park-Swansea (Mr. Shymko) and I specifically, and he, of course, is a member of your caucus-asked the inmates if the francophone inmates watched television.

They said, "Oh, yes, we watch television in English with the others."

We said: "Oh, yes; that is fine. Do you watch in French sometimes?"

They said, "No, it is not permitted."

We asked the superintendent—is that what you call the guy in charge?

Hon. Mr. Leluk: Superintendent.

Mr. Boudria: He said: "That is correct. It is not permitted in this institution." We then visited the library and noticed there were very few books in French, if any. I did not see any French books in that institution, either.

I believe that the clientele in that institution is about 50-50 francophone; perhaps your experts can indicate exactly what the ratio is.

The question here, of course, is not whether television should be provided or whether books should be provided; that is a decision your ministry has already taken. The question, rather, is whether television should be provided in French for francophone inmates. That is the question I want to ask.

Hon. Mr. Leluk: The question I would ask in turn is whether French-language programs are available on television.

Mr. Boudria: Oh, yes, in northeastern Ontario; Radio-Canada.

Hon. Mr. Leluk: I do not know. In that area I would think yes. You have a francophone

population there.

I know from my visits to many of our institutions that in the libraries in those institutions we have many books in different languages, not necessarily just in French. There may be some in Italian, Portuguese and what have you. Our inmate clientele is quite diversified because it is representative of the population.

We have a French-language co-ordinator who works in the Scarborough office of our ministry,

in the communications department.

Mr. Boudria: I understand the co-ordinator is not available today but the co-ordinator's supervisor is.

Hon. Mr. Leluk: Ms. Jacqueline Frank is the co-ordinator for this ministry. We could possibly ask Mr. Crew, who is sitting at the back of the room, to come forward. Maybe he can expand a little further on some of the things I have said.

Mr. Boudria: Basically I would like to know what the policy is from the ministry's standpoint.

Mr. Chairman: Mr. Crew, can you help Mr. Boudria out, please?

Mr. Crew: Yes, certainly.

Mr. Boudria: I do not know if he can do that.

Mr. Chairman: You do not know until you hear, do you? Give him a chance.

Mr. Crew: As the minister mentioned, we do have in the ministry a francophone, a fluently bilingual French-language services co-ordinator, Ms. Jacqueline Frank. She could not be here today because she is touring northern Ontario with her colleagues, the other French-language co-ordinators, and they are visiting a number of communities trying to educate the public about the services available throughout the government in French.

She is also meeting with a number of our ministry managers trying to promote the French-language services program and to get a better indication for herself of the level of services available to our client population.

One of the processes we use in ensuring we have services available to inmates and probationers and parolees in the French language is that whenever a vacancy occurs on the staff of an office or an institution in one of the designated areas of the province, the manager responsible for that position and the local regional personnel administrator are required to contact our Frenchlanguage co-ordinator, review the availability of

French-language services—the number of staff, for example, who speak French—and determine whether, in fact, our level of services should be improved in that area. If it is felt there is a lack of French-language services, then we may very well designate that particular position as requiring bilingual capabilities.

Mr. Boudria: You have a policy whereby you will say, "We are deficient at this particular institution so therefore the next vacancy will be filled by a bilingual person"?

Mr. Crew: Yes, we have, and we have done that in the past.

Mr. Boudria: That is good.

Mr. Crew: In fact, one of the major tasks that Ms. Frank has undertaken over the past little more than a year that she has been in this position is the preparation of a fairly comprehensive French-language services policy. I have the draft of it right here. It just has to be put into the proper format.

The intention is to distribute copies of this document to all managers throughout the ministry just to heighten their awareness concerning French-language services and to make sure that we pay particular attention to the need to fill those gaps that may exist out there.

Mr. Boudria: You are addressing the personnel side of it.

Mr. Crew: Yes.

Mr. Boudria: That is quite good. Actually, it is better than some of the other ministries. It is only very recently that the Ontario Provincial Police have been persuaded to embark on this after years of my complaining. I am glad to hear that you will designate positions where there is a deficiency and try to augment the complement of bilingual personnel in those areas.

It may seem like a small issue in the whole context of things, but how does one solve the specific situation of that television that we experienced there? I recognize the difficulty. There is only one room and there is only one television.

The superintendent said, "If we turn the television to the French channel, everybody else is going to take a fit."

I asked him: "What about the ones here who do not understand English? Are they not taking fits?"

He said, "No, they are not."

Mr. Chairman: You said 50 per cent of the inmates were French-speaking. How many are unilingual and do not understand English at all? It would be a very small proportion, would it not?

Mr. Boudria: I do not know. I did not ask the fraction the other way, either. In northeastern Ontario there are quite a few anglophones who are bilingual. Alan Pope is bilingual. You do not have to be French to speak both languages. I did not ask what the ratio was either way.

I am just wondering, how does one solve that kind of a problem? Is that going to be treated in your manual, for instance? I am not sure I know the answer myself, but I am asking.

Mr. Crew: In one respect, I think it may. That is the sort of issue that Ms. Frank is there to address and to review with our managers and superintendents. I would certainly be happy to draw that matter to her attention. She could discuss it with the superintendent and perhaps some arrangements could be made that during certain times of the day French-language programming could be on the television. I will certainly review that with her.

Mr. Boudria: Thank you. I had a thought that if the room is rather large, right now the smaller television sets are on special for about \$299; it is not exactly one of the larger, more expensive items. We have to recognize that if you are sitting in the middle of the room and there is a television set at each end playing a different channel, it is rather mind-boggling. It can be a difficult experience.

5:10 p.m.

Again, I do not know the answer to it, but the problem was raised with myself and Mr. Shymko. There was another member there. Three of us listened to that particular concern. We went right away and talked about it to the superintendent. His solution was quite simply just to ban listening to French television and the problem would be licked.

I am not sure I like that answer to solving the problem, but I am not sure I have a better one, either. Perhaps your co-ordinator could look at that kind of thing.

When that manual is prepared, I would be very curious to see it, if it would be possible for some of us to view it afterwards. I would like to see how one addresses that kind of thing.

Hon. Mr. Leluk: I understand that could be made avilable to you.

Mr. Boudria: As I say, I am not sitting here telling you I have the solution to those kinds of problems. I do not; I do not know what it is. Nevertheless, I wanted to expose some of them.

Just in closing, I am glad you have taken the approach whereby you have decided to designate certain positions where you feel there is a

deficiency. That is, again, something that not all ministries have had the foresight to do. Actually, very few of them have done it as far as I know.

That is very good, and I congratulate you, your officials and your co-ordinator of Frenchlanguage services for that move.

Mr. Swart: Mr. Chairman, first of all, I would like to know how many institutions are in areas that are designated to be bilingual. Perhaps I could just add another supplementary to that. In the areas which are not bilingual, but where of course there are some French-speaking people, what services, if any, are provided, particularly in probation, parole?

Mr. Crew: The designation of areas as requiring a certain level of French-language services is set government-wide, not by this ministry, so we apply those definitions of designated and appropriate areas.

Quite a number of our institutions are in those areas. I will just list them for you: Cornwall Jail, L'Orignal Jail, Haileybury Jail, Monteith Jail, Sudbury Jail, Ottawa-Carleton Detention Centre, North Bay Jail and Rideau Correctional Centre.

Included in the appropriate areas are the Niagara Detention Centre, the Chatham Jail, the Pembroke Jail, Thunder Bay Correctional Centre, Thunder Bay Jail, Windsor Jail, Barrie Jail and Sault Ste. Marie Jail.

Mr. Swart: What do you mean by appropriate area? I ask that question in my ignorance.

Mr. Crew: Basically, the appropriate areas are larger urban areas where there is a fairly significant concentration of francophones, such as Metropolitan Toronto. The policy—

Mr. Swart: In Niagara, particularly Welland? **Mr. Crew:** Welland, yes.

The policy applies much the same to the designated and appropriate areas. As I mentioned in response to Mr. Boudria's question, any time a vacancy occurs in either a designated or appropriate area, we go through that process of assessing our level of services.

A number of our probation and parole offices are in those designated and appropriate areas. For example, in the level of service we now have in the designated areas in probation and parole offices, 53 per cent of our staff can speak French. It is somewhat lower in the institutions.

Mr. Boudria: Sorry. Could you repeat that?

Mr. Crew: Yes. In the designated areas 53 per cent of our staff in probation and parole offices speak French.

Mr. Swart: What about the appropriate areas?
Mr. Crew: In the appropriate areas, it is 20 per cent.

Mr. Swart: You said they were treated basically the same. Is it the clear intention to bring that percentage in the appropriate areas up to the same level?

Mr. Crew: Any time we feel there is a gap in the service, if there is a significant element of francophone clients in that appropriate area, and where there is not a high proportion of Frenchspeaking staff, then it would certainly be our intention to improve those numbers.

Mr. Swart: All things being equal, when you are taking on new staff throughout the province generally, is preference given to persons who are bilingual?

Mr. Crew: I would say that is true in both the designated and appropriate areas.

Mr. Swart: My question was with regard to the other areas as well.

Mr. Crew: Capability in any language in addition to English in our type of human service is an asset, so if anyone can speak French and/or any other language, that certainly is going to help him secure employment with us.

Mr. Swart: It is not necessarily French more than any other language?

Mr. Crew: That would depend on the area. For example, if we were hiring a probation officer for a certain area in Toronto, we might want someone who has the ability to speak Italian, Greek or whatever.

Mr. Swart: In Niagara, too?

Mr. Crew: Niagara, too.

Mr. Swart: What percentage of the number of new employees taken on each year is bilingual? Can you tell us?

Mr. Crew: I am not sure.

Mr. Swart: I think you propose to take on 121 in the coming year. I am not sure how many you took on in the last year. What percentage would be bilingual in French and English?

Mr. Crew: I guess the only way I can answer that question, Mr. Swart, is to say that right now throughout the ministry 441 of our employees can speak French. That is just under 10 per cent at the moment.

Certainly we are placing increasing emphasis on French-language services, so I expect that the percentage of staff being hired now who can speak French is higher than that, but I do not have any exact figures for you.

Mr. Swart: I wonder whether you could provide us with information on the number of French-speaking people, the number of employees and the percentage now as compared to 10 years ago, for instance, and the percentage of new employees who have facility in French, so we can have a picture—and, if possible, in the appropriate areas and the designated areas as well.

Mr. Crew: Certainly; I can have our co-ordinator-

Mr. Swart: With regard both to increasing the number of French-speaking employees and the employment of women, it is probably true that this ministry is better than most ministries. I want to concede that point.

I also want to make sure that French-speaking people are not going without this service, especially on probation and parole and so on-because it is exceedingly important for those services to be provided in their own language if they are going to be effective. If you have a lack of communication, there is no question that it causes problems, especially if people are sensitive.

Mr. Crew: Could I make another comment in response to that? I would like to point out that about 2,000 of our employees, and we have just over 5,000 employees altogether, speak other languages in addition to English.

Mr. Swart: Yes, the minister indicated that in his "facility in 40 languages" or something like that.

Dr. Podrebarac: As a supplementary to that comment, I think most of the people you see back there are with the ministry and we are accustomed to working through our noon hours. Actually, some of us start at 7:30 a.m. and we usually break at 6 p.m. to go home.

When I try to find some of those people during the day, sometimes at noon hour, they are all volunteering to take French-language instruction on their own time. However, I have tolerated it. I have let sending a letter wait a little longer. There is that kind of dedication at the present time from those unilingual types back there.

Mr. Swart: I am not sure you should just tolerate it. I think you should encourage it.

Dr. Podrebarac: I should encourage it. Well, if you do not mind your letter being another day late, we would be happy to accept that.

Mr. Swart: After 120 days, what is another day?

5:20 p.m.

Mr. Chairman: Thank you, Dr. Podrebarac. Mr. McKessock has rejoined us, and I believe he has a question or two.

Mr. McKessock: Thank you, Mr. Chairman. The minister mentioned earlier that my figures on the cost of incarceration if the bail program was not in place were a little out of whack. I would like to ask a couple of questions on that program. If it is a complicated program, I am willing to talk to the minister about it later.

My understanding is that the bail program is in place for those who cannot afford bail. Is that right?

Hon. Mr. Leluk: Yes, to a degree it is right. It is for those who cannot come up with cash or surety; however, I would like to call Mr. Evans to give you a complete answer to that.

Mr. Evans: Again, there seems to be a little confusion here. The intention of the bail program originally was to deflect from incarceration those who would be remanded.

At that time, about the only way that could be done meant a person would actually be in jail for a couple of days after bail was set. When he went back for the show-cause hearing, a representation was made that he could be supervised on the streets. If the program had been clean and pure that way, we would not be running into the difficulties we are running into; we would have known we definitely had someone out on the street who did not have the money because bail was set.

The program is under the authority of the courts and we do not have control of that side. What seems to have happened is that at hearings, the courts are listening to the information verified. Most of the work that is done are the 12,000 verifications a year, out of which we end up with 3,000 people under supervision. It is almost a four-to-one ratio.

The verification of the individual allows the court to say, "Maybe this person would be helped by being in this kind of program," since the bail supervisors do a lot of good social intervention. They find jobs, accommodation and that kind of thing for the clients of the program.

We have no way of proving all those people have been deflected because they would have had bail set and been put into our jails. That is the dilemma.

Mr. McKessock: Are you saying the judges are saying, "Okay, we might not have given this guy bail, but seeing as he is going to be supervised, we will let him go under this program"?

Mr. Evans: That is one possibility.

Mr. McKessock: It would happen whether he could afford it or not.

Mr. Evans: Correct. If we look at the other programs where there are no bail programs, our remand count goes up and down. We have not been able to pin it down cleanly.

If the program could be cleaned up and bail set—that is, the guy has gone to jail because he has no money; then at the show-cause hearing he is taken back and told he would be supervised on the street—then we would know for sure that individual was being deflected.

Mr. McKessock: That makes it difficult to know whether your figures or mine are right. You cannot pin down what it really would cost you to have these people incarcerated without the bail program.

Mr. Evans: Except that it is only in 12 project areas. There has not been a demand on the part of either the courts or, in a sense, certain administrators, for quick expansion.

Police forces in some places do see a lot of people with bail on their own recognizance visiting them. For example, some police have indicated to us that if they were any judge of the people who should be locked up on remand while awaiting trial, by and large the majority of people in some of our bail project areas are not people they would have recommended for incarceration.

Mr. Chairman: Do you have a comment to make?

Hon. Mr. Leluk: No, I think Mr. Evans has covered it.

Mr. Swart: I want to pursue this matter further, but I am in your hands. Do you want it done now or later?

Mr. Chairman: We might as well do it now.

Mr. Swart: I recognize a grey area in determining the success rate of this program. You were probably here when I read out the report from the library research. Even recognizing the grey area, there seems to be a contradiction between what you and the minister are saying and what the people who are administering the program are saying.

I would like to ask you if you disagree. For instance, let me read to you the first page of this

report:

"About 1,200 people per month report under the program in the province; of these, 500 report in Toronto to the Toronto bail program, which is the largest one. Donald Evans," which is you—

Mr. Evans: It is me. I own up.

Mr. Swart: —"executive director of the ministry's community programs division, claims that the number that would actually have stayed in custody is closer to 250. Sally Lewis, director of the Toronto bail program, disputes his contention, however, on the grounds that the 1,200 people are selected because they look like people who will not get bail."

There is a difference there between 1,200 and 250. Even if there were 250 in that program at any given time, would the savings not justify the programs, the savings in jail costs? I recognize that you have a standard staff at the jail, and if you are just taking some people out of jail at a given time, you do not have the total saving of the average daily cost of a client who is in jail.

But, having said that, I think this would be on a fairly ongoing basis, and it could reduce the population in the detention centres or in the jails. If you reduce it even by that 250 figure, if you are using the figure of \$60 or \$70 a day, are we not in fact—

Let me put it another way. It would appear that this program is paying for itself many times over by keeping people out of jails or detention centres. Is this not true? The minister indicated in his statement today that he is not sure it is true.

Mr. Evans: I am not sure it is, either.

Mr. Swart: This statement would indicate that it certainly is true and that you are saving a very substantial amount of money. Unless you can refute the figures that are here, I have to accept that this is factual.

Mr. Chairman: Why would you accept those figures as factual and not the minister's?

Mr. Swart: Because these have come from the research department here at the library and because I have not seen any other figures to refute them. Even the statement here of 250 seems like a very real saving.

Mr. Chairman: It seems to me that when you put the comment of Mr. Evans in that particular report beside the young lady's comment, Mr. Evans seems to be in the correctional service business on a more involved basis than the young lady is.

Mr. Swart: Perhaps he can explain how taking even 250 out of it does not pay for it.

Mr. Evans: If we have 12 project areas, and the 12 project areas each service a certain number of jails and remand centres—for example, in Metropolitan Toronto one would cover at least three—if I have 10 pennies here in my hand, and if I can manage to deflect 2.5 of those pennies over to this hand, which is community-based correctors.

tions, I still have not got this hand free enough to take on any other tasks, right? I still have to hold on to 7.5 pennies.

I may have a small energy saving so that I do not have to grip as hard, but I do not have the total saving of up to \$77 per day. I may have marginal savings on feeding costs; I may have some marginal savings on admission costs. But by and large I still have the same levels of staffing.

If you check the figures, we have not increased the staff to a great extent, we have not increased the bed capacity overwhelmingly in any of these areas and we certainly have not been in a position to close down either a whole section of a jail or a whole jail in order to realize the savings we could deflect.

5:30 p.m.

The real dilemma we face is that, at the same time as we have this type of deflection that we were trying to bring about in one programwhich, even on the basis of all our figures, combines roughly 993 or 1,000 people in the total program, and I am arguing that only a percentage of those are true deflections-if we then go at community corrections on the other side, or probation, where in a two-year period we have had a 50 per cent increase in community service orders, which is all funded by the community, some of these same agencies, we have no new appropriations that can really match that need. One has to see, in value for dollar, whether enough true savings are realized in one particular program. If there are, we have to ask: "Can we use that money for a program we feel is allowing the judges to deflect more people from prison, per se, than from the BILD program in terms of community service?"

That is the kind of dilemma we have. We cannot realize quick savings. If we could, we would expand the program.

Mr. Swart: But surely you are concerned about the long-term savings as well?

Mr. Evans: Sure.

Mr. Swart: You say you are not going to have any savings because you take that small number. That may well be true, but if you have a projection for a 2.1 per cent increase and this year you are going to hire 121 new employees, at least partly because of that increase, and if you can lower that increase by having people out on a supervised bail program, then in the long term you are going to save.

I cannot accept the argument that you cannot show it on the ledger this year or next year. Obviously you are going to have to provide more facilities. Over a period of time, there are capital costs.

I understand this bail program exists largely while court is in session. In the summer you could not save as much—or perhaps it is the other way around. There would be a variation in times of the year, but you have that kind of variation anyway.

I think in the long term this program would be very valuable. I assume you have funded it for another year because of the questions I am raising and the questions you have. Surely when that report comes back it is going to talk about the long term and the saving of expenditure of capital for new beds and that sort of thing.

I would like to ask you one other question. The director of the Sault Ste. Marie program has calculated 107 people have been supervised under this program since its inception, which would have been a total of 11,472 days of supervision had people spent this time in jail. I assume you would say they would not all be in jail. At \$70, the cost would have been \$800,000 which, in the Sault alone, would be equal to the total cost of this program in the 12 centres.

Mr. Evans: If that was true, it would be remarkable. Our own figures show that 60 per cent of the people served less than three days on remand and the next largest percentage served 28 days. What is happening is that the penetration and the length of time of coming to trial under bail supervision begins to increase. Our costs for the supervision of a person on the street actually escalate. More time is spent supervising the person and that is a cost too.

If we are correct in our assumption, then not all of those people would necessarily have gone into incarceration in the first place. We are actually picking up an additional burden to try to save.

That is the kind of thing we are trying to solve, because we are actually widening the net of control by controlling people under an order of supervision that may not have had to be. We are penetrating more deeply into their lives and in terms of human rights, that concerns us.

Mr. Swart: Generally speaking, would the supervision not be beneficial? Without supervision by, for instance, the John Howard Society, more people would not have reported and would have been in trouble again.

I realize it is difficult to get hard facts on these things, but I do not think we can ignore these factors in determining the end result.

Mr. Evans: We are not ignoring them. We are looking at them. We read all the available literature on bail supervision programs across the

country. We compare ourselves to other jurisdictions. We look at what is happening here. We have taken two research approaches. It is a grey area, as you say.

Another problem is that the judges and justices of the peace totally control the intake. We have the dilemma that we cannot control the program. They could put into it a lot more people who would never go into jail and escalate our costs, without our control.

We are trying to get some control. We would probably argue that if we could shape the bail program so it dealt with people with bail set, who we knew were on the way to incarceratioon, and we could intervene at that point and say we can provide supervision, we would know we had a true deflection. That would be our case.

Mr. Swart: Yes, I understand that, but my problem is, as a person who does not profess to have any great knowledge in any of this, when I hear organizations like the John Howard Society which feel this is an excellent program, then I have some difficulty in concurring, or not objecting strenuously to a government which is going to question why this program continues.

Hon. Mr. Leluk: If I might just wrap it up in this regard. Let me take you back to the opening statement I made yesterday. I want to assure members that this ministry is interested, and we have a review committee in place, which includes agencies that are providing services to date. They will be included in the total review process.

The committee will determine the extent of the need for a bail program, along with the historical development of this program. Once we have that report, I think we will have some clear answers to this whole thing. Part of the process we are going through now is to review the need for such a program.

Mr. Swart: I accept there is going to be a thorough investigation into this. I just do not happen to be one of those who believes if you can keep out of jail people who should not be there, apart from the finances—and I think many of these people would fit into that category—that it is desirable to do so because of the environment into which they will be put and all this sort of thing. There has to be a pretty strong argument—

Hon. Mr. Leluk: I believe this ministry supports that.

Mr. Swart: –to abandon a program that does keep some people out of jail. I guess that really sums up what I want to say.

Mr. Chairman: Do you have anything further for Mr. Evans, Mr. Swart?

Mr. Swart: No, I do not think so, not on this issue.

Mr. Chairman: Thank you, Mr. Evans.

Mr. McKessock: I have a question pertaining to some discrepancies I see in figures and a lack of figures in another case. I would like to question the minister on these.

In the estimates briefing material, the figures on page 11 show the 1982-83 parole and probation numbers to be 39,752. In last year's briefing notes, the same year's figures are different. Last year, it was 40,253, which is a difference of 501 for the same year. I am wondering where the 500 disappeared to?

Hon. Mr. Leluk: Maybe I could call on Don Evans to address those figures.

Dr. Podrebarac: Can we have that again?

Mr. McKessock: Yes, in the briefing notes, on page 11, if we go down to 1982-83 and go over to probation and parole, there are 39,752 people. If we look at last year's briefing notes for 1982-83 the figure was 40,253 for that same year. I am wondering how the 500 people disappeared somewhere.

Mr. Evans: We note this table has been restated over previous years, as a result of a change in format, so we did do that.

We have been trying to move into a computerization of our information system. A lot of our regional stuff was kept on a manual system and we are slowly moving through. We are having some difficulties reconciling it.

For example, one situation is that some people get more than one probation order. We are trying to ratify our figures and we hope by the end of next year to be much closer on actual figures. We have had some discrepancies.

Mr. McKessock: Okay. There were more last year, and you are saying that this year if a person had more than one probation order, you are only taking one of those?

Mr. Evans: We are just counting the person.

Mr. McKessock: Last year, could one person have been counted twice?

5:40 p.m.

Mr. Evans: He may have been counted twice, yes.

Mr. McKessock: How do the two probation orders work? Can you explain that to me?

Mr. Evans: Sometimes a judge will place a person–some people we have discovered are on five probation orders. The judge keeps putting

them on probation and then those accumulate. The longest one takes precedence. It is whichever is the longest term.

Mr. McKessock: Within a year?

Mr. Evans: You can be on probation up to three years; within a one-year or two-year period, a person could get probation more than once.

Mr. McKessock: Could he get probation more than once during a one-year period?

Mr. Evans: Yes. If he is back in court and if the judge decides he wants to give him probation on another offence, or even on a wilful failure for default of the probation order he is on, he can give him probation again.

Mr. McKessock: The other one was on the minister's report for 1983, page 15, where we have the 1981-82 and 1982-83 counts. Why under "Number of inmates refused to appear" is it not available for 1981-82 while it is available for 1982-83? In fact there are three in a row that are not available.

Mr. Evans: In 1981-1982, if my understanding is correct, we did not keep that statistic.

Mr. McKessock: You are improving the system.

Mr. Evans: Improvement every year.

Mr. McKessock: Perhaps I can turn to the probation and parole area for a minute. I might say that I was in the House and defending the parole system, although I am not sure whether the resolution was parole-bashing or parole-defending; I guess it was a little of both. I pointed out that the provincial parole system could be improved as well—the resolution had to do with federal parole.

In this area, I might ask the minister how he feels the comments of the Attorney General (Mr. McMurtry) of late have affected his parole system, when he has—

Hon. Mr. Leluk: Mr. McKessock, I do not think I should comment on the Attorney General's comments in this regard. The media has focused a certain amount of attention on the federal parole system, I might say, not on the provincial one, in recent weeks.

We concern ourselves with the Ontario Board of Parole. The chairman is here with us today and she may want to answer any questions you have regarding the provincial parole board. However, I do not want to comment on any statements Mr. McMurtry might have made.

Mr. McKessock: In the light of the fact that 22 per cent or 630 parolees failed to complete parole successfully in 1983, do you have any

plans to tighten up parole board decision-making in Ontario?

Hon. Mr. Leluk: Possibly Miss Clark could come forward and respond to that.

Miss Clark: My name is Donna Clark and I am the chairman of the Ontario Board of Parole.

I think it would be a fair reflection of the members of the board for me to say that the rate of revocations in any given year is something we look at carefully. I think the statistics this year will show there is a slight reduction in the rate of revocations, or at least they have been maintained at the same rate.

It has not fluctuated a great deal statistically in the last five years. It depends a little on the group you look at. The revocation rate is a little higher for those who are serving sentences of six months or more, and is somewhat less for those who are serving six months or less. There is a variation in individual statistics.

Overall, for example, I think this past year the figure is 23 per cent for revocations for the province and, of that number, a very small percentage is represented in persons re-offending. By far, the numbers revoked by the board relate to breaches in the agreement the individual has made with the board about being free on conditional release in the community.

I do not know whether that sheds some light.

Mr. Swart: What percentage would that be, if I can ask? Do you have that?

Miss Clark: That is about three per cent of the total number granted parole.

Mr. McKessock: You did a sample study of 266 of the 30,000 or 40,000 offenders? Was that study done in 1981?

Miss Clark: Yes, there was a study. I am not sure of the figures because I do not have the study here. It did follow up, a year after people had been granted parole, to see how they were doing and to look at whether there was a difference in the recidivism rate of those who were granted parole as opposed to those who went out on outright release after serving two thirds of their sentence.

Is that the study to which you are referring?

Mr. McKessock: Right. Was it 24 per cent of 266 who failed that?

Miss Clark: I would have to have the study in front of me and look at it. The revocation rate has not fluctuated a great deal over the past four or five years, so I would have to look at those figures.

Mr. McKessock: In your answer to Mr. Swart, did you say that three or four per cent of the total—

Miss Clark: Group that is granted parole.

Mr. McKessock: –group that is on probation or parole?

Miss Clark: Parole. I can only speak to parole.

Mr. McKessock: Did you say three or four per cent?

Miss Clark: That is right. This past year about 4.9 per cent were listed as having been charged. That resulted in actual convictions of approximately three per cent.

Mr. McKessock: What was the total number? Miss Clark: I do not have that with me.

Mr. Chairman: Mr. McKessock, would you allow Mr. Swart a supplementary? He just wants something clarified.

Mr. McKessock: Sure.

Miss Clark: We have a figure here of 178. That would be those in the group of revocations who would have been charged, but that does not represent convictions. It dropped to about three per cent actually being convicted. In other words, charges were dropped or were not proved in court.

Mr. McKessock: In 178 cases?

Miss Clark: In 178 of the 606 cases.

Mr. McKessock: So 606 were on parole?

Miss Clark: No, that were revoked.

Mr. McKessock: That were revoked? Out of how many parolees?

Miss Clark: Out of 3,609. Of the number granted, 606 were revoked. Of that, 178 came to our attention as a result of a combination of further charges or breaches of conditions that involved further charges. The charges that were not substantiated in court to that extent were about three per cent of that number.

Mr. McKessock: What originally brought you up here was the question of whether you are thinking of any changes in the parole system or policies.

Miss Clark: We have a number of ways of approaching that question. We have just finished an annual conference of all our board members from across the province. Indeed, we spent time looking at the decision-making of the board, reviewing our own practices to see where the errors are made and where we can do better.

We have study groups with our full-time members who carry a fair responsibility for providing some anchor or consistency to our part-time members, in which we look at cases that pose difficulties or problems in decisionmaking.

5:50 p.m.

We have not established an across-the-board position that we would do this or that. As you might appreciate, in the actual hearing situations we are dealing with a wide variety of people who are in quite a lot of different circumstances. It is very hard to lay down a black and white ruling.

Mr. McKessock: Apparently there was some discussion over the last year about the constitutionality of the Ontario Board of Parole. I guess it was in the situation where hearings were held with only two people and the quorum called for three. Was that it?

Miss Clark: I think that was one issue.

Mr. McKessock: What is being done about that?

Miss Clark: The quorum remains at three. There has been some suggestion that the legislation might change it to two. That has not happened, so the board is operating on a quorum of three. That includes a full-time member and two community members. Every hearing has a quorum of three members.

Mr. McKessock: So you have stopped doing that?

Miss Clark: That is correct. We are in line with the legislation.

Mr. Chairman: Mr. Swart, did you have a supplementary?

Mr. Swart: No, it was answered, thank you.

Mr. Chairman: Have you finished, Mr. McKessock?

Mr. McKessock: I think that was all on parole. I did want to ask a bit about the new detention centre for women in the west end. How is that going to affect the Vanier Centre for Women at Brampton? Did you say it was going to have another 190 or so beds?

Hon. Mr. Leluk: Mr. Duggan, who is in charge of the institutions branch, can respond to that question.

Mr. Duggan: To clarify that issue, the Vanier institution deals only with sentenced female offenders. It is somewhat similar to a correctional centre on the male side.

Ladies who have received sentences of up to two years less a day in the provincial system spend that time generally at Vanier. Some will spend it at Metropolitan Toronto West Detention Centre, short sentence offenders and so on.

The two institutions are different in function. The female unit of the Metro west detention centre will be primarily to house people who are serving short sentences and those who are on remand, during or awaiting trial.

The provision of 192 beds is probably a little more than we project we will need at the moment. What it will achieve for us is to enable us to empty part of the Metro west detention centre and put the ladies who are in that section into the new detention unit. That will enable us to house adult male offenders in the section of Metro west that is currently housing females.

Mr. McKessock: So it will pretty well double your capacity there.

Mr. Duggan: We are looking to the future, and thinking that by providing up to 192 beds we should be very comfortable in the Metropolitan Toronto area in relation to detention centre needs for female offenders.

Mr. McKessock: You say there is a difference between that and Vanier. So there is no thought of closing Vanier?

Mr. Duggan: None at all.

Mr. McKessock: I wonder about the size of the facility. It draws people from all over. Are there now only the two facilities for women across Ontario?

Mr. Duggan: No, there are not. There are regional facilities that house female offenders for remand and trial purposes and for short sentences.

For example, offenders from the western end of the Metro region, down to and including the Niagara Peninsula, are housed at the Hamilton-Wentworth Detention Centre. We take people from as far north as Guelph and the Brantford area there.

We have various catchment areas across Ontario that deal with female offenders. The primary sentence institution is the Vanier centre. We concentrate all our programming for long-sentence offenders at that institution.

Mr. McKessock: How many are at Vanier?

Mr. Duggan: About 120. The Metro west detention centre takes care for the Metropolitan Toronto area of all female offenders in the other categories.

Mr. McKessock: Was there any thought of building two 100-bed units rather than one large one with 192 beds, so you could spread it out across Ontario more?

Mr. Duggan: We did give thought to it, but it is much more expensive to build and staff two 100-bed facilities than it is to house up to a 200-bed capacity, for example; the expenses do become quite different.

Mr. McKessock: How will the programs at this new centre change when the capacity is doubled?

Mr. Duggan: We will be able to offer better programming for the female offenders than we have been able to offer at the Metropolitan Toronto West Detention Centre, because we are custom building the facility for a female detention unit. We will have such things as classroom and program space in there, their own special visiting area, etc.

We are custom building it for the purpose, so it will in fact be better programming.

Mr. Chairman: Excuse me, Mr. Duggan and Mr. McKessock. We will have to continue this tomorrow morning after question period and routine proceedings. The meeting is adjourned until tomorrow after routine proceedings.

The committee adjourned at 5:57 p.m.

CONTENTS

Thursday, June 7, 1984

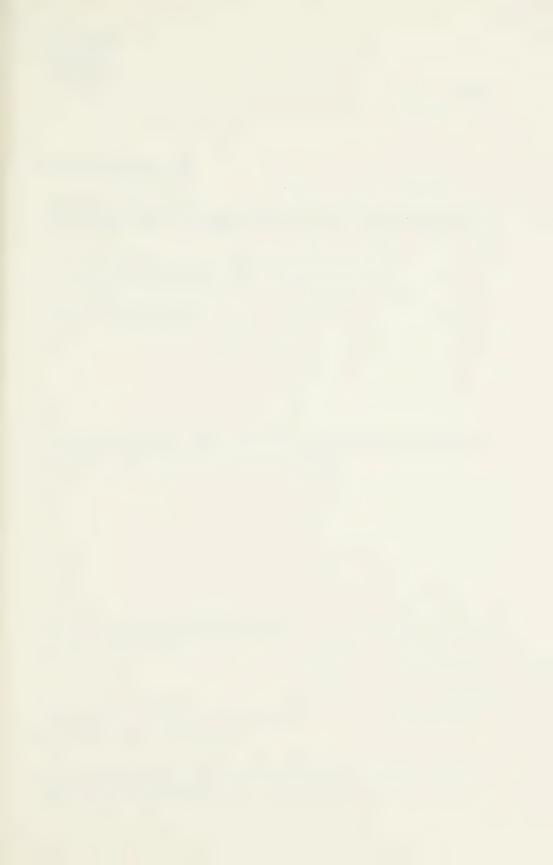
Ministry administration program:	I-163
Main office	J-176
Adjournment:	J-189

SPEAKERS IN THIS ISSUE

Boudria, D. (Prescott-Russell L)
Kolyn, A., Chairman (Lakeshore PC)
Leluk, Hon. N. G., Minister of Correctional Services (York West PC)
McKessock, R. (Grey L)
Mitchell, R. C. (Carleton PC)
Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Correctional Services:

Birkenmayer, Dr. A. C., Manager, Planning and Research Clark, D., Chairman, Ontario Board of Parole Crew, V. J., Director, Personnel Branch Evans, D. G., Executive Director, Community Projects Division Podrebarac, Dr. G. R., Deputy Minister









Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Correctional Services

Fourth Session, 32nd Parliament Friday, June 8, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, June 8, 1984

The committee met at 11:14 a.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (concluded)

On vote 1701, ministry administration program; item 1, main office:

Mr. Chairman: I see a quorum. Welcome back, ladies and gentlemen. We are still on vote 1701, item 1, main office, and I believe Mr. McKessock was discussing a matter with Mr. Crew. Was it Mr. Duggan?

Mr. McKessock: Yes, we were talking about the Vanier Centre for Women, but I want to move on to another area.

Mr. Chairman: All right, fine, Mr. McKessock.

Mr. McKessock: I wanted to look at the services provided to you by the volunteers. On page 4 of your speech, you mentioned them. I am quite interested in this because I think, as you have pointed out, great assistance can be provided here, but I am not sure exactly of what your volunteer programs consists. How a volunteer can get involved is really what I am interested in.

I have talked to some groups, such as church groups, service groups, Rotary Clubs or whatever, that might be interested in being of assistance in counselling some of the offenders. If this is possible, I was just wondering how they would go about doing it.

Hon. Mr. Leluk: We have volunteer coordinators. These people can get in touch with our main office in Scarborough. We are fortunate to have a very large number of people from the community who volunteer their time and efforts on behalf of the ministry. I believe last year we had well over 4,000 people involved.

These people come from all walks of life. Some are professional people, lawyers and people of that background. There are housewives, students, social workers and all kinds of people who are involved for one reason or another.

These programs are in the institutions. We have a number of volunteer programs in the institutions and there are several in the community as well. We have volunteer probation parole

officers, for example. There are numerous programs with which these people are involved.

Possibly Don Evans would want to come forward. He could speak in more detail about some of these programs. John Duggan could speak about the institutions.

Mr. McKessock: While he is coming up here I might just add to that. In the annual report it is mentioned there was a problem about the Don jail interview facilities, although there were 125 volunteers working in the jail.

I feel that in a detention centre such as the Don jail or the east or the west detention centres, where residents are there only for a short time—or they may be there for a considerable time, it is hard to tell—there seems to be very little chance of rehabilitation other than maybe through the participation of the volunteers.

I am sure there are a lot of people who would like to get involved. I am thinking of the fatherly type or the big brother type or whatever who could talk to these offenders on a personal basis.

Mr. Evans: The issue of volunteers, of course, is something we have been in for well over a decade and we are probably one of the leaders in the use of volunteers in correctional services anywhere in North America.

If I can take probation and parole first, we have approximately 1,700 volunteers helping us at the present time. They provide all kinds of services: helping people find jobs; helping them in life skills programs; helping them learn to read and write in literacy programs. We have people who do counselling for us at various levels in this way.

We do not have a shortage and we are always looking for more, but people seem quite willing to work in this kind of area. We have fairly extensive training programs for them, so they are not left to their own wits.

Mr. McKessock: If there are groups who want to get involved, then, they should contact the Scarborough offices, as Mr. Leluk mentioned?

Mr. Evans: Yes, that is correct.

Mr. McKessock: They can then see how to go about it.

Mr. Evans: Yes. it is a similar kind of program on the institution side. Usually what

happens is that groups come in, either church groups or other service groups or self-help groups, and run programs right in the institutions. Some of them are of a leisure time nature; some are of a counselling nature.

11:20 a.m.

The Don jail has a very interesting program, a kind of rap session, in which the inmates meet with the group that runs it, and they sometimes bring different people in from time to time, whether they are police officers, lawyers, or people from Correctional Services, to answer questions and problems that inmates might have. That is a very successful program.

Mr. McKessock: Is there the opportunity at the Don to meet individually with offenders, to talk them on a one-to-one basis?

Mr. Evans: I am not sure. Mr. Duggan, you had better handle that one. That is on the institutional side. I think there probably is.

Mr. McKessock: I realized, when I toured the jail, that there is the telephone system on each side of the glass, but I mean at the personal level-you know, meeting them in some kind of a-

Mr. Duggan: Yes, there is opportunity at the Toronto Jail for them to meet individually. In the last year we have increased the space at each landing that was available in the Toronto Jail for the use of volunteers.

We have made the room larger there, so there is that opportunity to meet individually with people. To add to what Mr. Evans was saying, we are very proud that we have just under 2,700 volunteers in a wide range of programs, operating on the institutions side.

Mr. McKessock: How many?

Mr. Duggan: I think there are 2,626 in total.

Mr. McKessock: Minister, on page 28 of your speech, you mentioned that—

Hon. Mr. Leluk: Just prior to that, I might mention, Mr. McKessock, you indicated an interest in the conference that is coming up at York University, called Impact '84, which is a volunteer conference.

I hope you may have the time to attend that conference. I am sure you will find it of interest, and it may answer many of the questions you are raising at this time.

Mr. McKessock: Yes, I would like to do that. On page 28 of your speech, you mentioned "cognitive programming." I am wondering if that ties in with the volunteer help. Hon. Mr. Leluk: Dr. Birkenmayer might come forward to answer that question.

Dr. Birkenmayer: At this time, this is a very highly experimental program and, as such, is going to be run by probation and parole officers, with consultation with a psychologist and a master in criminology.

The long-term hope is that the program, once it is proved, developed and refined, will be amenable to being run by people like volunteers. At this stage it is still very embryonic and is not yet amenable for that sort of massive involvement of untrained people.

Mr. McKessock: From listening to the minister talk on the topic, it seemed to me that we are perhaps trying to get across to the offender something he had missed through his family background. You are going to go in there like a friend, a brother, a father, or a mother, and try to—

Dr. Birkenmayer: This is going to be a very highly structured program, involving a lot of exercise and involvement in various media of instruction, in which our hope is that we can make good the socialization and developmental deficits that a lot of our offender clients have suffered from.

It is not going to be a very friendly type program, giving them a pat on the back and just having a little rap session. It is going to be a very involved, highly structured program, with every module having a specific role and impact.

Mr. McKessock: You roused my curiosity when you said it was not going to be a "pat on the back" thing. Can you give me a specific example of how this might work?

Dr. Birkenmayer: There would be specific exercises, for instance, to alert an offender on how to be aware of other people. We notice that a lot of our offenders do not realize other people exist out there and how their behaviour impacts on them. No amount of telling them will really solve that problem.

We have developed a variety of exercises that will help them become aware of this. This goes on and on, in a wide range of topics and subtopics. Some of the exercises really are a lot of fun. There is some element of play-learning to it in that the modern technology of their learning does involve a certain amount of gamesmanship. But it is not going to be just a friendly, big brother chat.

Mr. McKessock: Okay, thank you.

Mr. Chairman, the minister and I have talked a bit about the remand situations of the courts. I

was wondering if the minister talks to these other people about these things. It seems to me that if there could be only one remand per case, this would speed things up a lot. It really came to my attention while going through the Don jail. When we looked at the computers, we saw there are so many cases remanded, so many times, that it seems to me to be a big waste of time.

I can understand that sometimes the offender may be delaying this, or his lawyer. In the other case, it may be the crown. In my opinion, for the good of all, one remand should be enough. It just keeps delaying things and keeps them in jail. By the time you get around to the court case, the actual case has long been passed.

Hon. Mr. Leluk: In answer to your question, remands are outside the jurisdiction of our ministry. As you know, they are the prerogative of the Ministry of the Attorney General and the court system. For whatever reason the judges choose to provide remands, we really have no control over it. There is not much more I can add to that.

Mr. McKessock: What exactly do you do with other institutions, to connect with them, with the judges, the lawyers, the crown attorneys, the police, to make them aware of the pressures on your ministry?

Hon. Mr. LeLuk: We have communications with my colleague, the Attorney General (Mr. McMurtry). I happen to sit on the committee on justice. We have meetings from time to time and we have discussions. From time to time, the judges in this province have invited staff members in my ministry, including myself, to address them on many of our programs, and the success of these programs as alternatives to incarceration.

However, that does not mean we try to tell judges how they should be sentencing people who appear in the courts. That is totally their prerogative.

Mr. KcKessock: But you can make suggestions.

Hon. Mr. Leluk: From the statistics we provide they certainly would know there have been high remand numbers in our institutions from time to time. There has been some communication, but again I want to stress that this is the prerogative of the court system and of the Attorney General's department.

Mr. McKessock: Would it not hit you, the same as it hit me when I looked at that computer and saw the list of remands, that it is a terrible situation?

I think you would say to the Attorney General: "You have to do something about this. This is not acceptable." Even though it is his jurisdiction, you would tell him the impact of how it is affecting you, the taxpayer, the offender, and everybody in the whole system.

Hon. Mr. Leluk: I will just repeat that we receive them. We are at the receiving end. When the police arrive with warrants of committal, we take inmates into the institutions. We do not have any jurisdiction in this area.

However, as I said, we communicate with people in the Attorney General's department, and we have communicated with he judiciary. I do not know if there is anything more I can add to that.

Mr. McKessock: I hope you take the opportunity quite often to point out to them that remands should be cut down.

In your speech, you mentioned there were 218 bed spaces created. Of these, how many were created by double bunking?

Hon. Mr. Leluk: I believe those figures were given yesterday. However, we could call John Duggan back to possibly refresh your memory and provide those numbers.

11:30 a.m.

Mr. Duggan: If you can bear with me one minute, I just need to find the figures.

Yes, in 1982-83, the ministry added singlebed spaces, not double-bunked beds, Mr. McKessock.

Mr. McKessock: So these were brand-new spaces?

Mr. Duggan: Yes. We added 150 beds in dormitory settings at Mimico, 10 beds at Burtch, 12 beds again in dormitories at Windsor jail, 40 beds at Guelph, 36 beds at Millbrook, which was a completely new unit added to that facility, and we opened the fifth floor of the Hamilton-Wentworth Detention Centre to provide a further 60 beds.

In addition, we added 22 single beds in a dormitory setting at the Ontario Correctional Institute. At the Metropolitan Toronto West Detention Centre there was a renovation of what was a hobby craft area, and we converted that to provide 32 beds in eight four-person units. In the Barrie jail, 14 single beds were added in a dormitory-type setting.

At the Peterborough jail, there was an addition of 10 beds in the installation of the ministry's prefabricated jail unit. Could I show you some pictures of that? You might be interested to see it.

Mr. McKessock: Just as a supplementary there, you mentioned that you took a craft centre to put these in: did that deteriorate the programs within the jail? How did this affect the rehabilitation programs?

Mr. Duggan: It did not in that instance affect the programming in the jail because that hobby craft unit was not being used. We had other areas that we were using. In the other facilities, it was also space that was being utilized for reasons other than programming.

Mr. McKessock: I think that is all I need to know. I wanted to verify whether they were added by double bunks.

Mr. Duggan: All those I gave you are not double-bunked.

Mr. McKessock: Thank you. On page 19 of your speech you mention temporary absence. You note that the federal guidelines were vastly different from the provincial. I question this because an article in the Toronto Sun on June 6 talks about both guidelines and states that Kaplan has just introduced legislation that would make it tougher for inmates considered a risk to get on mandatory supervision.

In the provincial jail system, they are let out after two thirds of their sentence without supervision, whereas under the federal system they are supervised. I have the feeling they would be better to be supervised in the provincial system as well. What is your feeling on that, or why are they not?

Hon. Mr. Leluk: It is true that inmates in our system who have served two thirds of their prescribed sentence—and that is not in all cases—if they have built up remission time for good behaviour, and that is assessed by staff in our institutions along with the superintendent, then they would be released after having served two thirds of the time.

I know there is a lot of confusion these days with the criticism that the federal parole board has come under. There has been a lot of spillover on to the provincial parole board, which I do not think is warranted because they are two separate entities. Possibly through no fault of their own, the public does not always differentiate between the two systems of corrections or the two parole boards.

I have Mr. Duggan here with us and he can address in detail some of the concerns you are raising.

Mr. Duggan: Mr. Chairman, to deal with temporary absence, we are extremely proud in our ministry of our record as far as temporary

absence is concerned, and I think with some justification. The program has been going since 1969. We have granted 176,000 temporary absences during that period.

To give you an idea of what that means yearly, in the last fiscal year we granted 16,564 in one year. It is under 200,000. Almost 98 per cent were completed successfully without revocation or withdrawal. Of 176,263, some 171,204 were completed successfully. I think that is a record in which we can take some satisfaction.

In relation to how people get on to temporary absence, it is a very careful process. There are a number of reasons people would apply for temporary absence; for example, for humanitarian or rehabilitative purposes, for home visits, for interviews, to look for jobs, for voluntary community work and so on; there are a whole host of reasons. The process is that at the institutional level a committee of three will review the application submitted by the inmate himself or herself, giving his or her reasons why he or she would like to have a temporary absence.

That is explored quite thoroughly by that committee. It may include community checks and checks with the judiciary and the police. There can even be checks with the sentencing judge. When that has been completed, the committee makes a recommendation to the superintendent. It is his final authority that will determine whether a person will go on the temporary absence program. It is a program we have developed carefully over the years. It has been going for 15 years now and is one we take pride in.

Mr. McKessock: As the minister mentioned, there has been confusion over the provincial and federal programs. With the provincial program, inmates can get out on temporary absence immediately; is that right?

Mr. Duggan: Yes, they can.

Mr. McKessock: Under the federal program they have to serve a sixth of the time.

Mr. Duggan: One sixth of the time.

Hon. Mr. Leluk: Perhaps I can clarify that. Immediate release is a decision of the sentencing judge. If the sentencing judge calls for an immediate temporary absence for an offender, he or she has to apply for a temporary absence program when he or she comes into the institutions.

Mr. Duggan: As the minister indicated earlier, we have spoken to pretty well every judge in the province at the seminars we have been to on the immediate temporary absence

program. The guidelines we have issued are that these people who are recommended for immediate temporary absence should be serving sentences of 90 days or less. The judge will make a recommendation. We will generally implement that recommendation within 24 hours. That is somewhat the exception rather than the rule.

The point you are making is quite a valid one. We do not have a restriction that says someone has to serve one sixth of his time before he is eligible for temporary absence. It should be borne in mind that we are dealing with people serving sentences of two years less a day and under. In the federal system they are obviously dealing with sentences of two years and up. They are for much lengthier periods. We look carefully at the time a person has spent in custody and the time he has spent on his sentence when reviewing applications.

Mr. McKessock: At the bottom of page 22 of your speech you say: "You can discount the reports you read about inmates leaving prison who just cannot wait to get back into trouble and back into prison. It simply is not true. Certainly, without support, people can find it very difficult to re-establish themselves in the community, but the bulk of our clients not only want to stay out of conflict with the law after their release or at the end of their parole terms, they suceeed in doing so."

I question that, because we were saying yesterday that 65 per cent to 70 per cent of the people in jail are repeaters.

11:40 a.m.

Hon. Mr. Leluk: I grant you that the recidivism rates are high. What was the question?

Mr. McKessock: At the bottom of page 22 of your statement it says it simply is not true that inmates leaving prison just cannot wait to get back into trouble and back into prison. When I look at 65 to 70 per cent of them for whom this is the case, it makes me wonder about your statement.

Hon. Mr. Leluk: Donna Clark, the chairman of the Ontario Board of Parole, is here, and maybe she can elaborate on that. But I do believe this is not the case; I have stated that and I stand by it.

The rates are high. People who go back into the community, for whatever reason, fall in with certain people with whom they may have been associated in the past. Our job is completed once these people leave the institution. There are numerous reasons why people come into conflict with the law again and why they return to the institutions. We do our best, and I think our staff does an excellent job in trying to rehabilitate and change the attitudes and behaviour patterns of people who come into the institutions for the short time many of them are with us.

I want to point out to you that 57 per cent of our inmate population is serving 30 days or less, and that is a very short period of time in which we have an opportunity to do something with many of the people who come into our care. You do not change behavioural patterns or attitudes overnight. Miss Clark may wish to elaborate on that.

Mr. Chairman: The member for Welland-Thorold had a question.

Mr. Swart: By way of a supplementary, perhaps.

Mr. McKessock: Okay, but I just want to clarify with the minister that if he was speaking about the parolees, maybe I could understand it; but he also spoke about the release of those who had conflict with the law, or at the end of their parole term.

Hon. Mr. Leluk: Yes, but those comments are in the section in my speech that dealt with parole.

Mr. Swart: Mr. Chairman, I asked the same question yesterday, really. Is it not true that what we are really talking about here is parole, not recidivism? In fact, I thought the answer was that only three per cent of these people committed a crime again while they were on parole. I do not want to get into the question of people getting caught up again maybe two years later; I want to deal strictly with parole.

Mr. McKessock: If it is strictly with parole, that makes a difference.

Miss Clark: Mr. Chairman, may I make a distinction in this matter about the recidivism rate? I think the rate is higher for those who have had a fair amount of experience in the correctional system in a long-term sense. I do not have the figures with me, but it is my impression that by far the greater number of offenders do not recidivate and it is the core group that is in the revolving door and has a higher rate.

I do not have those figures here, but I think it is perhaps important to make that distinction.

Mr. Swart: I wonder if we could have these figures. I think it is rather important for us to know whether the recidivism rate is higher among people who have been on parole than it is

among people who have been sentenced to jail generally.

Miss Clark: If I may speak just to parole, which is the area I am more familiar with-

Mr. Swart: I wonder if the committee members can have these figures now or have them sent to them at some point.

Dr. Podrebarac: Mr. Chairman, we will see if we can get them together. I do not know if we will be able to do it today, but we would be glad to share them with the members.

Miss Clark: A study was done by the ministry, and I do not have it with me today, which compared people who were released on parole as opposed to those who were released at the end of their time, people who opted not to be considered for parole, and there was a significant difference in the success of those people on the street. I do not recall the figures, but we can provide those to the committee.

With respect to our own system in Ontario, I did make the statement yesterday that only three per cent out of the more than 3,600 we released were reconvicted on new charges. I do not have the details of the nature of those charges, but I am certainly aware that they were not of the most serious type, because those cases would have been brought to my attention.

There are 20 per cent in this past year's statistics in which the board itself said it was not satisfied with the performance of the parolee and, indeed, revoked the parole on that basis.

So we have 77 per cent who did not incur any further charges, nor did they come to the attention of the board because they were lackadaisical about their parole conditions or the agreement they had made with the board.

Mr. McKessock: Is the minister in favour of changing the release time required for federal parole?

Hon. Mr. Leluk: As I mentioned a few moments ago, I think the criticism that has been expressed in the media recently has been totally about the National Parole Board. The Ontario Board of Parole has not come in for criticism.

In my opening statement, I mentioned the differences between the two boards. We deal with a totally different clientele from the federal board. Our people are sentenced for up to two years less a day. They are more minor offenders than the more violent and serious offenders who come into the federal correctional system and are dealt with by the National Parole Board at some time.

I also want to point out that 90 per cent of the members of the provincial parole board are representative of the community, people who express community standards and community opinions. They are the ones who make the decisions on who is going to be paroled or not paroled. I have no reason to question the one third of the time that has to be served by inmates before they can apply for parole. I have no reason to question that or change it.

Again I point out that we are totally separate and apart from the National Parole Board. We are dealing with a different clientele and we have not come in for criticism. Our board is doing an excellent job, as the chairman has just pointed out. Our success rate is quite high, as far as people who come into contact or commit further offences once they have been paroled are concerned. So at this time I do not see any reason we would want to change that.

Mr. McKessock: I voted in favour of this resolution, because I am always in favour of the resolutions of the honourable member who is with us this morning. I am always in favour of considering and looking and reviewing, and that is what the resolution called for. I forget how the minister voted on it. How did he vote on it?

Hon. Mr. Leluk: I do not believe I was there. The member for Parry Sound (Mr. Eves) voted.

Mr. Chairman: Mr. McKessock, we seem to be straying a bit. Mr. Swart has been waiting patiently, so if you could wind up, I would like to put him on. Possibly we could return to you as we move along the rows.

Hon. Mr. Leluk: Mr. Chairman, before we do, I might point out that the member for Parry Sound, in bringing forward his resolution, was really looking at the National Parole Board rather than the Ontario Board of Parole.

Mr. Eves: I took the opportunity to look at both.

Mr. McKessock: On the subject of affirmative action, the minister mentioned there were 235 women working. Where did that figure come from?

Hon. Mr. Leluk: Those are women working in institutions with male inmates.

Mr. McKessock: I question whether that is proper. I know the thing today is to increase the number of women in all walks of life, but when it comes to them working with male offenders, I am not sure that is good.

Mr. Chairman: We have women police officers now.

Mr. McKessock: That is fine, but I mean within the jails. I toured the Don jail and I am not so sure—

Hon. Mr. Leluk: Does that mean the member is not supportive of equal opportunity for women in the work force in this province?

Mr. McKessock: Do we have men watching the women offenders taking showers?

Hon. Mr. Leluk: Yes, we do. As a matter of fact, we do have some male correctional officers who supervise and work in the female units of some of our institutions. The Vanier Centre for Women, for example.

Mr. McKessock: I am old-fashioned, but I am not sure that is quite right.

11:50 a.m.

Hon. Mr. Leluk: Our people are professional people and they respect the privacy of those who are incarcerated. We expect them to perform that way and they do. I am very proud of the manner in which our staff people carry out their day-to-day duties. This ministry is firmly committed to the affirmative action program in this province. We are very proud of our track record in that regard.

I am very proud of the women officers, who do an excellent job for us on a day-to-day basis.

Mr. McKessock: I do not question their ability at all; I think they are doing a good job. What I question is whether it is proper to have women working within the male institutions and vice versa.

Hon. Mr. Leluk: Possibly Mr. Duggan would like to say something further on that.

Mr. McKessock: It is a sensitive area.

Mr. Duggan: If I may, Mr. McKessock, I would like to direct you to our policy on the use of correctional officers. I think in his speech the minister made some reference to that. It is kind of a landmark policy in the correctional jurisdiction in Canada. We are the first to have come out with such a policy.

In response to the points you are making, which I think were summed up and brought to our minds and attention to quite some degree during the formulation of the policy, I would like to take just a minute to quote to you from that policy directive.

"It is the policy of the Ministry of Correctional Services to maximize the employment opportunities for all staff, regardless of their sex, and thereby ensure that they obtain the necessary experience to compete for promotional opportunites. "With the exception of those duties and posts which invade the personal dignity and modesty of inmates on the grounds of public decency, correctional officers will, therefore, be assigned equally to all duties irrespective of their sex and will rotate through all posts in an institution."

We go on to deal with it in a little more detail under inmate privacy, for example, congregate

showers and strip searches.

"The Ministry of Correctional Services recognizes the need to respect the personal dignity and modesty of inmates on the grounds of public decency. Invasion of inmate privacy is defined as direct staff supervision and/or physical contact with inmates of the opposite sex who are in states of total nudity or substantial undress.

"Except in emergency situations, therefore, the following duties will be performed by correctional officers of the same sex as the inmate:

"(1) Direct supervision of congregate showers, where the correctional officer has to work in full view of showering inmates;

"(2) Strip searches, which will be performed in accordance with section 23 of Ontario regulation 649/80.

"When admitting and discharging inmates or performing strip searches in a designated area of the institution, only the primary stripping officer need be of the same sex as the inmate, provided the physical layout of the institution allows for the protection of the personal dignity and modesty of inmates."

We do have some restrictions in that regard. Simply put, this means we will not place an opposite sex correctional officer on such a duty as showering and strip searching inmates. That would be done by an officer of the same sex.

I recognize the concerns you are putting. I will not deal with the whole of the policy, but I will be quite happy to give you and Mr. Swart if he would like one, a copy of that so you can look through it at your leisure.

Mr. McKessock: That would be fine.

On page 39 of the 1983 annual report, there is a page that looks like a page out of my farm account book. It does not explain what it is. I would like to know what it pertains to. It is the report of the minister for 1983, page 39.

Hon. Mr. Leluk: This is in reference to the self-sufficiency program the ministry operates in the production of food. Many of our institutions across the province have adjacent land which is used for farming purposes for the growing of crops. Many of the inmates in these institutions are out working in the fields, which I think is

excellent in helping to teach them some work skills and what have you.

These figures, I take it, refer to the numbers of pounds of beans and Brussels sprouts, etc., that were harvested during that particular year. John Duggan might want to elaborate on that, but this is just a sheet which spells out the quantities of the various vegetables and fruits that were produced through this self-sufficiency program and the cost of the production of same and the cost avoidance to the taxpayers of this province.

I think it is an excellent program. It does help to offset some of the food costs to the taxpayers. It gives inmates an opportunity to get outside into the fresh air. Work is good for everybody. We do have a work ethic and everybody works. In our institutions we try to have people working at various programs.

Mr. McKessock: I agree with the program. I just wondered why there was no explanation of this page, not even a title on the page to say what it was for.

Mr. Duggan: If I may, I can explain it a little more fully.

We are in the fifth year of our self-sufficiency program, Mr. McKessock. We entered into this program to do the things the minister has already alluded to, to provide employment for inmates and to offset the high cost of food production and food services in the ministry.

Over the years, for example, we have been buying quite a bit of equipment necessary to cultivate the soil and to prepare it for the growth of vegetables and for certain livestock. I can give you some very quick figures.

We are divided into four regions in the ministry. Last year the northern region produced goods amounting to the value of some \$147,000, with a production cost of \$124,000. Thus, we managed to avoid food costs of nearly \$23,000 in that region. In the western region, the value of production was \$197,000 and our production cost was \$181,000. That gave us a cost avoidance of \$16,000. In the central region, the figures were some \$137,000 for the value of production and \$114,000 for the cost of production, which gave us an avoidance of \$23,500.

We did lose a little bit of money in the eastern region. Our value of production was \$97,000 and the cost of production was \$110,000.

Mr. McKessock: That sounds more realistic.

Mr. Duggan: In fact, as any farmer will understand, we had to buy a silo. That cost us \$40,000, but we will recoup that over the following years. Despite spending \$40,000, we

had an extra cost of only \$13,000. We will make that up.

Over the years we have averaged something like—I am guessing a little here, but the figures for 1982-83 include the ministry total of \$75,000 in cost avoidance. Last year it was nearly \$50,000. That has been quite representative of what we have done over the five-year period.

Now that we have gone into the five-year cycle and our major cost outlays in equipment, building silos, food storage, cold storage and so on have been expended, our expectation is that our cost avoidance figure should move up.

It is certainly a program that is not costing the province any money. In fact, it has been saving the province money and it is very gainfully employing quite large numbers of inmates.

Mr. McKessock: Actually, I think you should get more deeply into the farming area. I think you are doing better than the farmers themselves.

Hon. Mr. Leluk: Without any government subsidy either.

Mr. McKessock: That might take a bit more research.

Mr. Swart: The wages are about the same as the farmers get.

Mr. Chairman: Mr. McKessock, could we have the opportunity of having Mr. Swart on for a few moments?

Mr. McKessock: Okay. I have a few more questions, but perhaps I can get in on some of the others or get them at the other end.

Mr. Swart: I want to go back to this matter of parole. We have a completely different situation in this Legislature today from what we did yesterday when we discussed the matter of parole.

You will recall that when I made my opening comments at the very beginning I stated that the ministry found itself in a difficult position. There were contradictions between what is considered the conventional wisdom—getting tough with all people who are convicted of any crime or even misdemeanours—and, it would appear, the statement of principles in your briefing book and your annual report, which were quite progressive.

12 noon

I accepted the fact that you and the government were sincere in pursuing those principles, probably because of the staff you have. The senior staff are progressive in working on this and advising you. I would like to think that, on your own, you want to take a progressive attitude.

There was a resolution, introduced by the member for Parry Sound (Mr. Eves), debated

yesterday in the Legislature which, to a substantial degree admittedly, was aimed at the federal government system but which was not separated because the federal government has some control over what is done in Ontario. In his statements the member for Parry Sound made it clear he was dissatisfied with what is being done in Ontario.

I have a report before me this morning. You may wish to deny it, although I had an opportunity to look at some of Hansard, not all of Hansard, and I think it is fairly accurate.

I would like to quote an article in this morning's Toronto Sun headlined, "Ontario Calls on Feds for Tighter Parole." It talks about the resolution and says, "The resolution, proposed by Tory MPP Ernie Eves, also says a prisoner should serve at least half his sentence before becoming eligible for any form of parole." That is contrary to the policy of this province at the present time.

It goes on to say: "In an interview, Eves said he feels the Ontario parole system should also be examined. 'I am not saying the Ontario system is lily-white in this whole thing,' he said. Because of the public's perception of parole, 'I don't think we should be sitting on our hands and not doing anything about it. And I don't blame the parole board, it's the system.'"

Then it quotes Mr. Doug Kennedy, who said, "The growing availability of parole is an indication of how 'soft and easy' society has become in its attitude towards crime."

I would point out that the member who moved that motion and made those comments is a member of the justice committee.

We also had in this morning's Sun a statement by the Provincial Secretary for Justice (Mr. Walker) in which he says there should be no parole whatsoever for those who have perpetrated violence. Then he goes on to talk about the rest, those who have not perpetrated violence. "The public has the right to be protected,' he said. 'Inmates should be expected to serve the sentence given by the judge. A judge's sentence should be carried out.

"Inmates should earn the final third off a sentence-if released early at all-not let out automatically as is the case under current mandatory supervision regulations."

That is the minister's boss, the Provincial Secretary for Justice. He is supposed to set the policy in this field. I am concerned about this. I would be glad to hear the comments of the minister in this regard and I want to put some more questions to him.

In material with which you have supplied us and in your statements, you indicate that you feel the parole system in Ontario is working very well. I am inclined to agree with you.

I noticed you were not in for the vote last evening.

Hon. Mr. Leluk: I was detained.

Mr. Swart: I am not being critical. Do not be defensive. I thought perhaps you wanted to stay out on a vote like that which had some implications for this government.

The member for Grey (Mr. McKessock) has already quoted the introduction of your speech on the issue of parole. Certainly, nobody could read that, starting on page 21 of your introductory remarks, without believing that not only should the parole system be maintained but perhaps expanded.

You state: "In recent years we have had very steady growth in the number of inmates paroled. For instance, there was an almost 20 per cent increase between 1982-83 and 1983-84. Much of this growth was the result of more inmates with relatively short sentences being granted parole.

"Parole in Ontario goes a long way back. In fact, in the 1920s, the report of the parole commissioner showed a very purposeful use of this correctional tool."

The words which the member for Grey read are, "You can discount the reports you read about inmates leaving prison who just cannot wait to get back into trouble and back into prison. It simply is not true."

I would agree with that. The figures we have of three per cent while they are on parole actually commmiting a crime bears out what you say here. You go on to say that without support people can find it very difficult to re-establish themselves in the community. "The bulk of our clients not only want to stay out of conflict with the law after their release or at the end of their parole terms, but succeed in doing so."

I am perturbed that every member of the Conservative Party—and I think I am correct in stating this—voted for Mr. Eves's resolution when he criticized the Ontario system of parole.

Hon. Mr. Leluk: If you look at the resolution, it is dealing primarily with the federal board of parole.

Mr. Swart: It is dealing with that primarily, but if you read Hansard you will find the issue was parole. Granted, it is more serious in the federal system because there are people there serving long-term sentences. I do not deny that, but these people took the opportunity to take a

crack at parole. Perhaps the minister will want to deny these statements.

Mr. McKessock: Was it a crack at parole or just a crack?

Mr. Swart: It was a crack at parole. It was certainly condemning the federal parole system and to a very substantial degree condemning the parole system we have in Ontario as being too lenient.

I just want to say that a great majority of the House voted in favour of the resolution and therefore against the present parole system. We are in a very difficult situation in Ontario. Before I wind up here, I would just want to have some assurance from you that you are not in any way going to change the parole system in Ontario so that fewer people will be on parole.

When there was a 20 per cent increase last year, yet only this three per cent figure when they are out on parole, I think we should be looking at expansion when we have the community groups in to talk. Yet we have the Provincial Secretary for Justice and a member of this committee, Mr. Eves, clearly indicating they do not like the present system.

Hon. Mr. Leluk: In fairness, I think my colleague the Provincial Secretary for Justice was speaking primarily about violent criminals.

Mr. Swart: If you read this, I am sorry, he said, "Violent criminals should not-"

Hon. Mr. Leluk: I cannot speak for Mr. Walker. I respect people's opinions that may differ from those of others. In a democratic society certain people, whether it be the member for Parry Sound or our Provincial Secretary for Justice, have the right to speak their minds.

I have made it very clear that it is not the provincial board of parole that has come under criticism in recent weeks through the media and by the public. It has been the National Parole Board. I have dealt with the types of clients our board is seeing on a day-to-day basis. They are different from those the federal board deals with.

I talked about the supervision in the community, through our probation and parole offices, of the people who are released on parole and also with the fact that the parole board is made up 90 per cent of members of the community who represent community standards and opinions and who make the decisions. The decisions are not made by this minister. They are made totally by an independent body, which is the parole board.

Mr. Swart: I am not being critical at this point.

Hon. Mr. Leluk: No, I realize that.

Mr. Swart: I am being supportive, but I would like to ask you this. In view of the very real contradiction in the position taken by the Legislature yesterday, at least in speeches in the Legislature yesterday with regard to parole, its value and whether it should be expanded or restricted—and certainly those on the government side indicated they felt it should be restricted—are you prepared to make a statement to the Legislature on the continuation of your system and that you are not going to retract on that?

Hon. Mr. Leluk: I do not think that is necessary at this time. You talked about a review and whether I feel there should be a review. There has been a committee. The standing committee on procedural affairs has been reviewing the commissions, boards and agencies of this government. I understand the Ontario Board of Parole also has been reviewed. There is a report forthcoming in a couple of weeks.

I do not feel it is necessary for me to make any kind of a statement at this time with respect to our own parole board. As I say, I am quite pleased with the manner in which the board has conducted its duties on a day-to-day basis. We have not come under criticism, publicly or otherwise, and I am very pleased with the track record to date. I do not think a statement is necessary at this time.

12:10 p.m.

Mr. Swart: This will be my last comment on this issue, and then we can go back to Mr. Gray.

Mr. Chairman: No, we will not. Mr. Eves wants to speak after you. It is only fair.

Mr. Swart: I have been around enough to know that what was done yesterday in the Legislature was politically popular. I know that is the wisdom out there at this time. This has got into the press now. What happened yesterday in the Legislature is a big thing in the press; it has already been stated. The public out there do not distinguish between provincial and federal.

Hon. Mr. Leluk: Yes, that is a problem.

Mr. Swart: Certainly the members who spoke on the government side distinguished to some extent, because they had to take cracks at the federal government. That is where the major problem lies; I am quite willing to admit that. But they also said the provincial system needs looking at too. With that perception out there on the part of the public, it seems to me that it behooves you, if you want to maintain what you have, to get up and defend it or you are going to

lose it. That public pressure is going to force you to make changes.

I leave this thought with you. I feel it is desirable, and to some degree an obligation on your part, to make this kind of statement. Word it the way you want, make the distinction between federal and provincial, but indicate to the public that you think the system is working well and that you are going to continue down the road you are on.

Hon. Mr. Leluk: Again I just want to point out that the procedural affairs committee has just conducted a review of our parole board. I understand a report will be forthcoming within the next couple of weeks. I do not feel a statement from this minister is necessary at this time.

Mr. Chairman: Thank you, Minister. I believe Mr. Eves would like to make a few comments.

Mr. Eves: I think my resolution is fairly clear. I was not taking a crack at anything. I expressed in my resolution what I felt should take place, and that is a review and a reform of the National Parole Act.

If Mr. Swart was present for the whole debate, especially my initial 20-minute statement, he will be aware the federal parole act indeed outlines periods of eligibility, not only for the federal parole board but also for provincial parole boards as well. Subsection 9(4) of the federal act says provincial parole boards cannot implement rules and regulations that are inconsistent with the federal act or its regulations.

The responsibility for this matter, as much as Mr. Swart may or may not want to recognize it, does rest with the federal government. If he knows anything about constitutional law, he will know that. If he knows who has the authority to do that legislatively, he will know that.

With respect to the time limit in the resolution, it specifically says one half for day parole and one half for full parole. It does not say parole in general, as you chose to interpret it. It is very precise. It says exactly what it means and means what it says.

I do not think there is a case. If you want to put yourself in the same category as the comments of the member for Essex South (Mr. Mancini) yesterday, I guess that is entirely up to you. I can tell you the resolution is a very sincere one; it was not done for any political expediency. Quite frankly, it is an expression of what the people of Ontario feel, at least in my constituency. Apparently 55 out of the 71 members who voted yesterday agree.

With all due respect to you, Mr. Swart, that is what democracy is all about, giving the people what they want, not what you, as big father, think is better for them. That is exactly what democracy is about. I do not know how the New Democratic Party sees it.

Mr. Swart: It has something about leadership too.

Mr. Chairman: I do not recall Mr. Eves interrupting you, please. Go ahead, Ernie.

Mr. Eves: There was not on my part any political opportunism, as you chose to describe it. I think the resolution should be acted upon by the federal government. I certainly hope it will be.

Quite frankly, and I have no hesitation in saying this, it is quite possible that we in Ontario, following the federal government's lead, may well be affected by the experience and the decisions made at the federal level, because it has the legislative and constitutional responsibility to do this. We may well have to follow suit in certain circumstances.

However, I point out, as the minister has already done, that there is a substantial difference between inmates in provincial and federal institutions as to the types of crimes they have committed and the sentences they have received. They should be treated differently and separately.

I also commend the Ontario Board of Parole in that some 90 members are lay people and 11 people, by my recollection, are civil servants, which is drastically different from the composition and makeup of the federal board.

You may also be interested to know that by practice the provincial board generally sits in panels of three. Two are usually lay people and one is a professional person or civil servant. That is in direct contradiction to what the federal government does. It believes in having so-called professional people tell the citizens of Canada what is good for them in the parole system.

Mr. Chairman: Mr. Swart, you made reference to the fact that a number of members stood up. I personally stood up in support of Mr. Eves. It was private member's business. I can have opinions, and people in my constituency have opinions.

I want to remind you there were members from all sides of the House who supported Mr. Eves's resolution. I want to remind you once again that it was a private member's resolution we were debating.

Mr. Swart: I am not sure the chairman needs to remind me of that in his position as chairman.

He might want to leave the chair to do that. I am very much aware of that.

What bothered me was the expression of opinion by the Legislature, solidly by the Conservatives, that somewhere down the road—it has just been confirmed by what the member for Parry Sound (Mr. Eves) said—maybe we should follow the federal government. That is what disturbs me, that the minister is going to be forced into that position.

Mr. McKessock: I would like to make a few comments on parole before we leave it. Maybe I am in a fairly unique position right now. Coming to the corrections area, I have a good feeling as to how people feel on the streets and across the province as to resistance to parole, the way they look at offenders of society and so forth. I know the Minister of Correctional Services (Mr. Leluk) has a tough job. The public looks at these things differently because they have not looked into it.

I have looked into it in the past few weeks and I find my feelings have changed considerably. I probably would have been bashing parole also a couple of months ago. I was also involved with the Stephens case because he happens to live in my riding. That was a federal parole case.

I got a number of letters from the community and people from the church he attended saying they hoped this does not get blown out of proportion in the press. Certainly this young fellow got into a very unfortunate situation. It is hard to explain that to the public. He is currently out on parole, working in Meaford and supporting his family. The parole board figured he was not a person who would be of any further harm to the community.

As I say, my thinking has changed as I have looked into it more. I feel the parole system is a good system. It can probably be improved both federally and provincially; anything can be improved. I just think we have to be careful about what we say and what we do that we do not destroy the system.

Mr. Chairman: Is there anything further on item 1, main office?

Item 1 agreed to.

12:20 p.m.

On item 2, financial services:

Mr. McKessock: I am not sure which vote this comes under, Mr. Chairman, but I wanted to turn to page 110 of the estimates briefing material where some community programs are mentioned under number 5, such as, "restitution, victim-offender reconciliation and crisis intervention

programs." Could I get a little further explanation of these programs and how they work and what they do?

Mr. Chairman: Excuse me, Mr. McKessock, we are on financial services, and that item does not come under this.

Mr. McKessock: Where does this item come up?

Hon. Mr. Leluk: Under vote 1703.

Mr. McKessock: Vote 1703.

Mr. Chairman: We will have to pass. We will have to move along. Mr. Swart, do you have concerns or questions on item 2, financial services?

Mr. Swart: No.

Item 2 agreed to.

Items 3 to 8, inclusive, agreed to.

Vote 1701 agreed to.

On vote 1702, institutional program:

Mr. Swart: I have some questions I would like to put here, Mr. Chairman. I will give my place to the member for Grey (Mr. McKessock) if he wants to go first.

Mr. Chairman: He is going to have a question on vote 1703, so we will proceed with you on 1702.

Mr. Swart: I would like to have explained in this budget—Dr. Podrebarac did explain this to me but I think committees should know this—the definition of constraint in arriving at a final total increase. We have these figures of wages; then you deduct constraints of \$2.4 million and the unfunded liability reduction. I wonder if we could have an explanation on that.

Dr. Podrebarac: If I may, Mr. Chairman, Mr. McCarron is the executive director of the administration and finance division. In our previous discussion, I think Mr. Swart talked about the word "constraint." It happens in each of the accounts, each of the items.

Mr. McCarron can give you an overview on what that means, the implications in keeping with what the minister said to you the other day with respect to the overall response to ups and downs, add-ons or deletions. I think Mr. McCarron can give you the overview.

Mr. McCarron: I can review all the items that are listed in the explanations at the bottom of the page if it would be helpful.

A government-wide constraint was placed on all ministries. Of the \$4.1 million that was placed on the ministries, \$180,000 of that was on travel

and communications and the rest was salaries and other operating expenses.

The inflation on nonsalary items was an award of five per cent, which is awarded on all nonsalary accounts. As to the impact on working conditions and benefits, shift workers received an increase under the arbitration award on working conditions and employee benefits.

The unfunded liability adjustment was an amount of \$1.6 million, which is removed from the ministry's budget for lower than anticipated payments towards the public service superannuation fund.

The special allocation of \$1,221,000 was for the additional staff which the minister referred to in his comments yesterday, 17 staff for Barrie Jail and Metropolitan Toronto West Detention Centre, eight new staff members to the Ontario Board of Parole and a work load increase for the community resource centres.

On the work load allocation, the ministry received the 96 staff members which were referred to yesterday. Seventy-five were assigned to the insitutions program and 21 to the community programs.

Staff training institutions were awarded an amount of \$200,000 by Management Board to improve staff training. We have been refunded \$2.11 million of the voluntary retirement option. The chaplaincy transfer was in the amount of \$68,000 for regional chaplains and that account will be administered by the Civil Service Commission rather than by the ministry.

I think that is basically all the items that are referred to in the explanations at the bottom of the page.

Mr. Swart: Where do you make the saving on the constraints? I am still unclear.

Mr. McCarron: The constraint is placed on each cost centre. Each institution and office would have to absorb the amount. That is done in many ways, such as reductions in use of overtime, hiring unclassified staff and that type of thing. The managers have had their budgets reduced and they must comply with the government-wide constraint that has been placed on them.

Mr. Swart: So that could mean not filling positions for a period of time or hiring unclassified staff.

Mr. McCarron: No. As you are aware, we must staff an institution, each shift must be covered; so we have to look at other ways of doing it. It may be one does not have more officers on a particular shift, but one does not

leave one's institution unstaffed and so one fills the vacancies as they occur.

Mr. Swart: Would I not be correct in assuming that when you have a budget such as you have here, and in fact for the whole ministry, where 70 or 80 per cent of it is for wages, the main application of any restraint program would have to be made against salaries?

Mr. McCarron: Yes, but it covers so many different cost centres—institutions, offices and different programs. While we obviously do not like the constraint that is in place, it can be absorbed.

Mr. Swart: In effect, what you are saying is that you set your budget at a certain minimum and then you have to apply constraints to it and find a way of saving \$2.4 million.

Mr. McCarron: The constraint was placed after the budget had been put in place, yes.

Mr. Swart: When I look at this budget and see you spent \$25,000 last year on supplies and equipment, recognizing that you may go into a certain program one year and not go into it the next year, it is going to be difficult to cut in some of those areas, it would seem to me, when you are \$3 million below what you spent last year.

Mr. McCarron: There are many times when you may have to reduce your inventory. There may be vehicles that you do not replace until the next year, or repairs and renovations that you leave over until you have funding. The manager has the leeway to place the constraint where he can without damaging his particular program.

Mr. Swart: Perhaps I can ask a little different question while we are on the institutional program. What is the situation; do you have records with regard to the number of incidents of assault or confrontation that take place within the jails or detention centres in this province? If so, are they on the increase, are they holding their own or are they dropping?

Hon. Mr. Leluk: We have this information and I would ask Mr. Duggan to address that.

Mr. Duggan: I do not have the figures readily available with me, Mr. Swart, but we can certainly give you some information. It is something we watch quite carefully.

In general, I would say no, we have not seen an increase in the number of assaults, in the number of incidents that have required investigation.

Mr. Swart: May I interrupt, because I do not think I phrased my question entirely properly. I am referring now to incidents between prisoners and incidents between prisoners and staff.

Mr. Duggan: Yes, I was being general and lumping them all together. You are quite right, there is a distinction.

In talking to the director of the central region recently, his belief was that we are not seeing an increase, despite the overcrowding, for example. 12:30 p.m.

It depends on the institutions. In my experience, I have known institutions where the counts have been only at capacity, that is not overcrowded, but in fact we have seen an increase in the number of incidents. There are various reasons we can ascribe for that, and it sometimes goes against what you would expect. You would think when you get overcrowded conditions you would see an increase.

There seems to be no set pattern you can follow in this regard; I have seen it work both ways. But our feeling at the moment is that we have not seen an increase, and we will be monitoring this.

I have some figures here.

Mr. Swart: Perhaps while you are looking at the figures I could just ask you this. During the last period, we will say of 10 years, has there been no substantial increase? I know the inmate population has increased, but has there been any general increase? Is there a trend upward? Is it a fairly level percentage during the last 10 years or five years?

Mr. Duggan: In our client population we have seen an increase in a more difficult population to handle; we have seen a tendency towards that. In the Guelph Correctional Centre, for example, we have studied this fairly closely over the years and we have seen a little more difficult population to handle. We saw that as well at Maplehurst to some degree. It has caused us some concern.

But the trends over the years have not caused us any real worries. It is something we have to watch very carefully and very closely. This is the sort of thing we address in such matters as staff training and in making sure our staff are prepared for the kind of clientele they have to deal with.

One of the recent developments in this regard is that we have been fortunate enough to receive money and an allocation of staff from Management Board to improve our staff training at the basic level.

While officers coming into the system used to receive three weeks' training, we have now developed a program that gives them five weeks' training in their first year, and it addresses those kinds of issues. We are very conscious of the kind of training we need to give our staff because of the kind of clientele they are dealing with.

Mr. Swart: Do you have figures you are going to give me?

Mr. Duggan: These figures relate to our management by results. The actual number of misconducts, for example, in 1982-83—this is for the whole system—was 12,044. For 1983-84 our projection was 12,000, so it is remaining fairly constant, in our view.

Mr. Swart: Misconducts, of course, would cover a very wide range of minor incidents. I am speaking more of assault.

Mr. Duggan: Misconducts would cover all the things we have talked of as well as, as you pointed out, many minor things. Disobeying an order would be a misconduct and not getting up in the morning would be a misconduct, but an assault on a staff member would also be a misconduct.

Mr. Swart: Do you have them segregated?

Mr. Duggan: Yes, we can get you some information on that.

Mr. Swart: I am thinking of the more serious ones, and I realize the difficulty in segregating them. But, in your view, there has been no substantial increase even in the more serious ones.

Mr. Duggan: There has been no dramatic or substantial increase, no. We are watching that closely.

Mr. Swart: What about suicides in the jails—I know they are not terribly frequent—or attempted suicides? Are they rather stable year by year? Is there an increase in those?

Mr. Duggan: Any suicide, of course, is to be deplored.

Mr. Swart: I am thinking about attempted suicides, too.

Mr. Duggan: And attempted suicides. I have Dr. Humphries here, who might give us some more information, but our feeling is that we have a remarkable record on suicides. In fact, our rate is less than the average rate of the population at large, which might surprise people.

Mr. Swart: Is it because they do not have the tools?

Mr. Duggan: It is because of the supervision by the staff generally. Our staff are very cognizant of the danger of suicide.

People coming into the system may be suffering from quite a traumatic shock, having been through a court experience, having been given a sentence or just having been charged and having come into custody, and at the front end of our system in the admission and classification

section all our staff are alerted to look very carefully for indications that may lead us to think someone is suicidal or may cause himself some harm. We take steps to put him in a situation where we can watch him very closely.

Similarly, when someone is in custody we again watch very closely, and if there is any indication that he is very depressed or is liable to injure himself, we will take action to put him

under special watch.

From April 1, 1982, to March 1983 we had two suicides in 51 institutions with 65,000 admissions a year. This means that, with those two suicides, a projection of that figure for 100,000 admissions gives us a rate of 3.07 persons.

According to statistics from the coroner's office, there were 1,282 suicides in Ontario in 1982. If you consider the population of Ontario to be approximately 8.7 million, then the suicide rate in the general population is 15 per 100,000, and ours is about three.

Mr. Swart: That sounds pretty good.

What is our situation with regard to sex crimes within the institution? Are they rising? Are they kept pretty well under control?

I am thinking not only of sex crimes between prisoners but of prisoners who assault other prisoners because they have been involved in sex crimes when they come in. Could you give some general statement on this?

Mr. Duggan: The care and protection of people who have been charged with sexual offences is an area that causes any correctional administrator concern. There is a subcode in the criminal population and in the inmate population that treats them at the bottom end of the totem pole. They are the people who ride at the bottom.

We have to be very careful when we receive people who have committed sexual offences, particularly when there has been some notoriety to the offence. It is somewhat similar to the suicide question, in that staff are alerted to look for it and look out for it.

We have two means of protecting people. One is by placing them in protective custody ourselves and the other is to place them in protective custody at the request of the individual. We are very conscious of that.

Without sounding conceited, our record in the provincial system is a good one. I do not wish to cast aspersions on my federal colleagues but many of the cases that receive notoriety and press attention have not happened in the provincial system. We take every step to protect people in that regard.

The incidence of sexual offences being committed in institutions, if you are talking of an indecent assault by one person upon another, is extremely low. In fact, it is very rare.

We watch carefully for such things as the aggressive homosexual who may prey upon younger people. Our staff watches for that very carefully, but the incidence is extremely low. I do not have figures, but it does not concern us as being a problem.

Mr. Swart: Do you have those figures segregated? If you do I would like to have them. I do not mean now.

Mr. Duggan: We can get that for you.

Hon. Mr. Leluk: Possibly Mr. Duggan would like to comment on classification and the aspects of classification with respect to people who have been sentenced for sexual offences.

Mr. Duggan: We have a fairly sophisticated classification system in operation in all of our institutions and it is something which has been referred to.

We did a study of our classification system last year and we are taking some further action in regard to how we classify people. We will probably be adding some resources in that area.

We have 29 full-time classification counsellors across the province, whose role it is to assess and classify all people coming into the system. It is at that end of the system we look at the people coming in and determine what kind of programming needs that individual is presenting to us, as well as needs in regard to custody and security and the type of institution or community setting they may be able to serve their sentence in.

People presenting very particular sexual problems—the paedophile, for example, the person who has a predilection towards young children, we can offer very specialized programs in a number of our institutions to deal with that.

In reference to the problem with the aggressive homosexual that I referred to earlier, we have institutions that will cater to those people too, and afford them programs.

The classification system looks very carefully at the needs of the individual and what the system can provide to meet those needs.

Mr. Swart: Do you have figures on the repeaters of those who come in because of sexual crimes?

Mr. Duggan: Sexual offences particularly?

Mr. Swart: Yes.

Mr. Duggan: We cannot get that information. The numbers are not very high. They occupy a small percentage of our overall population. What

we could do is give you a snapshot picture of the numbers coming into the system at any given time and perhaps a count of the population we have at that time. That would give you an indication.

12:35 p.m.

Mr. Swart: I would like to have something on hat.

On the same line, I presume that you have health and safety committees in all of the jails. Are the recommendations of those health and safety committees generally met? Are there complaints about guards or other personnel working alone? Is there is a widespread demand, for safety reasons, for two guards instead of one? Is that a major complaint in the health and safety committees?

Mr. Duggan: To answer the question directly, yes, we do have health and safety committees in all our institutions, not only the jails.

Mr. Swart: You abide by the laws of the province.

Mr. Duggan: Yes, we do. The committees conform to Ministry of Labour regulations. All recommendations made by a health and safety committee are referred to the superintendent and the administration of the institution and are acted upon. Any areas of contention will be arbitrated by the Ministry of Labour, or its inspectors may come in and take action. So we do take action on those recommendations.

The issue of single staff in areas is not one that comes up very often. It has come up in the past, but it is not a common problem. We provide, in all our institutions, a policy that staff, in certain situations, will not enter a corridor without a backup officer. They may supervise that area alone but they do not enter it or put themselves at any risk without having backup staff available.

Mr. Swart: I have had that brought to my attention by a guard. Sometimes they feel they are too much alone. I wanted to know whether it was widespread. I presume you have certain policies that on certain occasions there must be more than one; on other occasions there shall be only one.

Mr. Duggan: Absolutely.

Mr. Swart: The health and safety committee would be aware of those situations, but its views perhaps would not totally represent the feelings of the employees in demanding two people in areas where the present regulations provide for only one. Am I correct? Is there some validity to that?

Mr. Duggan: Employees certainly have no hesitancy in bringing those matters to our attention. We have another system in operation besides the health and safety committees, that is, the ministry-employee relations committee. Every institution has a ministry-employee relations committee at which the members of the union will meet with the senior administration of the institution.

Any questions they have with regard to staffing patterns will be raised with the administration. If they are unable to reach resolution at that level, there is a ministry level employee relations committee that I and all the senior staff from each section of the ministry attend. Those issues would be brought forward to that group.

Mr. Swart: I have one more question about the stress program for employees. Is that primarily for supervisory staff or is it available to all staff? Is there higher than normal stress among employees of jails and detention centres vis-à-vis other jobs generally? Is there a higher turnover of employees for that and other reasons?

Mr. Duggan: We have indications that stress in the correctional field is fairly high. The studies we have looked at are mainly American-based or European-based. There have not been any made in Canada.

It is something we are very concerned about ourselves at the moment. We indicated to the Ontario Public Service Employees Union we were willing to enter into a dual study with it to look at the question of stress. The ball is now in their court to get back to us on whether they wish to proceed with that study.

If we do not proceed to look at that issue in line with the union, we will be undertaking a stress study of our own to come up with some definitive answers on stress-related factors in correctional work.

Mr. Swart: If personnel who have indications of stress want to have a course or treatment on stress, how do they initiate that? Is it initiated by the supervisory staff, or can a person just ask for it? Perhaps many of them would not recognize the need. How are they picked?

Mr. Duggan: We have a number of courses that are available to staff across Ontario. Some are locally initiated by various institutions that have had an interest in this. We have some that are centrally based in the staff training organization.

The whole purpose of the studies—the kind of studies that I have suggested we want to undertake—is to direct us in what we should be doing in that regard. The purpose of undertaking

the study is to ask: "What are the problems? What are the issues? What can we, as corrections administrators, do to alleviate those kinds of problems?"

Mr. Swart: I think we should turn it over to someone else now.

Mr. Chairman: Thank you, Mr. Swart. Are there any further questions?

Mr. Swart: We should turn it over to the government member. The member for Grey (Mr. McKessock) and I have putting most of the questions. We certainly do not want to be selfish. We are not under any illusion that the members over there think everything is perfect within the system and therefore do not need to ask any questions.

Mr. Chairman: You are absolutely right. Are there any further questions on vote 1702? There being none, shall vote 1702 carry?

Vote 1702 agreed to.

On vote 1703, community program:

Mr. Chairman: I believe, Mr. McKessock, that you have a concern.

Mr. McKessock: I am not sure if this question was asked before. If you do not have the answer I will leave it with you.

How many of the 19,000 people who went through the jail system instead of paying fines were there just for fine offences rather than awaiting another court procedure? I realize that some of them are in the jail, and while they are awaiting their court appearances they are also paying off fines.

Hon. Mr. Leluk: I have been advised that all 19,000 were there for having defaulted on fine payments.

Mr. McKessock: I realize that, but in touring the Don jail the other night, I understood that some of these people were there paying off fines while awaiting court dates.

Hon. Mr. Leluk: I think Mr. Evans has that information. He will address this question.

Mr. Evans: In keeping our statistics, we take the most serious offence or sentence as the basis point. If the person were there serving a sentence, as well as having fines, he would be counted in our statistics as serving a sentence and would not show up as a pure fine default. He would just be doing that in conjunction with his sentence.

Mr. McKessock: I see. He would be paying off his fine in conjunction with his other sentence. The people doing that would not be listed as one of the 19,000.

Mr. Evans: Correct.

Mr. McKessock: I understand there is a considerable number of people paying off fines while awaiting trial. This would add quite a few more to that 19,000.

Mr. Evans: Yes. I can have that cleared up for you by asking Dr. Birkenmayer, who keeps those statistics, to explain that process for you.

Dr. Birkenmayer: When a person is remanded in custody and executes his outstanding warrants for fines, his status changes while he is in custody and he is counted as serving his time in default of the payment of a fine. Then he goes back to being remanded, according to the computer system that we keep. He would be included in one of these 19,000 admissions, some 12,000 are people who have defaulted on fines.

Mr. McKessock: He would be included.

Dr. Birkenmayer: Yes, sir.

Mr. McKessock: My original question was: how many would fit into that category? How many would be included here, but would be awaiting another sentence?

Dr. Birkenmayer: I have no way of knowing that. It is a very difficult logical problem for the computer to determine.

Mr. McKessock: I would think the computer could do that, but perhaps next year.

I would like to ask a couple of questions about the Young Offenders Act legislation. I was wondering why Ontario has not signed the agreement with the federal Solicitor General, in principle, for the cost-sharing of the Young Offenders Act.

12:50 p.m.

Hon. Mr. Leluk: The letter has been sent. It has been signed and sent.

Mr. McKessock: I also wonder where these young offenders are going to be housed while they are awaiting sentence. I realize you have to have them separated from the others, but are they going to be at the same institutions? Will some of them be going to the Dòn jail?

Hon. Mr. Leluk: In my response to the questions you raised in rebuttal to my opening statement, I believe I mentioned they would be kept separate and apart from the adult inmates in separate facilities, either an adjoining institution or separate quarters. There will be bed spaces, cell spaces, which would be provided for those awaiting trial.

Mr. McKessock: Are we talking about separate facilities within the same building or

separate buildings or areas? Is there just going to be a wall between them or is there—

Dr. Podrebarac: With respect to the statement yesterday, we have capital planning under way, as was indicated. We shared with you in some depth our thoughts about the Bluewater Centre. As far as the other centres go, once those are finally approved by Management Board, we hope we can share all that with you.

In the meantime, we would have to have an emergency means of coping. We may have to take a corridor in an existing facility, clean it right out and contain them there for a short time. Remember that the intake will be starting on April 1, 1985. We will not have to accommodate all existing population under the act, so we are just going to talk about our new population.

Mr. McKessock: I realize that places like the Bluewater Centre will be handling them after they have been sentenced. I am thinking of the time while they are waiting.

Dr. Podrebarac: The pre-trial detention, as the minister has pointed out, will have to be handled in a similar way, separate and apart. We will have to have temporary strategies to do that. It is not going to be easy. As we have pointed out, our major disagreement with the federal authorities has been, in our view, their naiveté with respect to capital forecasting. They just do not think we are going to need capital facilities. From our data, we think we will.

Mr. McKessock: I see. Your feeling is that you will have separate facilities for those awaiting trial as well as separate facilities after they have been sentenced.

Dr. Podrebarac: Absolutely, in keeping with the interpretation of the act, that is what we are—

Mr. McKessock: You are talking about separate buildings.

Hon. Mr. Leluk: Again, bear in mind that the courts decide. Some of these younger people will have committed some serious offences and cannot necessarily be put out in the community on bail, for example, but will require some type of secure confinement.

To add to what the deputy has said, I attended the last meeting with Mr. Kaplan, the federal Solicitor General, who is responsible for the Young Offenders Act. There was unanimity among the 10 provinces and the territories on a number of points which Mr. Kaplan chose to ignore, one of them being finances, capital moneys for pre-trial detention.

I do not think Mr. Kaplan is living in the real world, when he thinks all young offenders will be

allowed to spend this time out in the community on bail; some of them will have committed some very serious offences.

He also failed to pay heed to those of us who were representing all the provinces with respect to the implementation date for this legislation. It was foisted upon us. We all asked for a delay in the implementation date so we could plan and put these facilities together.

We cannot bring these facilities on stream overnight. As I say, he did not pay heed to what the provinces had to say, but acted fairly well unilaterally in his decision to implement this legislation for 12- to 15-year-olds as of April this year and for 16- and 17-year-olds as of April of next year.

Dr. Podrebarac: In keeping with that, I must say there is some enlightenment on this project coming from the federal leadership in that they are encouraging all appropriate deputy ministers and other senior staff to get together frequently. There is a scheduled meeting in mid-July to start to talk about the agreement, which we will sign in principle with specific details to be worked out as we go.

For example on the question of accommodation, separate and apart, can it be a wing over the short period? I think they are looking at our intention to comply. As we have said, philosophically we have no argument whatsoever. Whether it is the Ministry of Community and Social Services or the Ministry of Correctional Services dealing with 16- and 17-year-olds, the capital forecasting, the capital need is still uppermost in our minds. I am encouraged by their willingness to continue to monitor.

We are also optimistic about the study to which the minister referred in his opening statement dealing with pre-trial detention, that is, the need for remand centres. Once we get some signficant data and show it to them they may be a little more sympathetic in looking at accommodation to house these people separately and apart, and we hope cost-share them. They are of the opinion they would be condemning all kids to prison prematurely. We are opposed to that. I think you have seen the statement of principles. You have seen our data which are dedicated to the alternatives.

Mr. Swart: You were going to rewrite them, though.

Dr. Podrebarac: Nevertheless, there is a willingness to debate and continue the dialogue. It is agreement in principle.

Mr. McKessock: On a a point of clarification: You have not signed an agreement in principle yet?

Dr. Podrebarac: The letter has gone just recently.

Hon. Mr. Leluk: As I stated earlier, the letter has been signed and has gone.

Mr. McKessock: So the agreement in principle has been signed.

The question I asked earlier and which I will come back to now is on those programs of restitution, victim-offenders reconciliation and crisis intervention. Could I have explained in a little more detail what they are and what they do?

Mr. Chairman: Mr. McKessock, while the minister is looking for the answer, we are nearing our time allotted for today. I was wondering whether you would accept a written answer so we could possibly have the final vote, unless there are any further questions on 1703.

Mr. Swart: How much time do we have left?

Mr. Chairman: We have approximately a half an hour next week, if you so require. We had tried to agree that if we could get all the questions, we would like to be completed on Friday, but certainly it is at the request of the committee.

Mr. Swart: There is one other area I wanted to explore a bit and that was—

Mr. McKessock: Could we go for another 20 minutes?

Mr. Chairman: I cannot. I have an appointment.

Mr. Swart: Perhaps I could just put a question and get a written answer or have someone call back on it. It is with regard to the program, if any, of group homes for the 16- and 17-year-olds. You keep them under your jurisdiction, but then you have to deal with them in a different manner. Will there likely be an expansion of group homes in the community? Will these community resource committees be empowered to deal with these in setting up the groups homes? Will there be environmental assessment or some similar thing, which does have a basis of application? I guess I would also like the details on the likelihood of additional groups homes and how they are going to be handled in the community.

Mr. Chairman: Mr. McKessock, what is your question? Mr. Swart has agreed to take a written reply.

Mr. Swart: I will take a written reply or even a phone call or discussion from the deputy minister.

Hon. Mr. Leluk: Mr. McKessock has mentioned the restitution program, the victim-

offenders reconciliation program. What was the other one?

Mr. McKessock: Crisis intervention program.

1 p.m.

Hon. Mr. Leluk: Just dealing with the restitution program, this has been used as a condition of a probation order. It is a method of holding offenders responsible for making good the damages they have done by stipulating the amount of moneys or goods to be paid by the offender to the victim of the offender's crime in accordance with the harm that has been done.

Taking the fiscal year April 1, 1983, to March 31, 1984, we had eight programs offered via contracts with private agencies or nongovernmental agencies with which we contract. Persons with restitution orders commencing at the start of the fiscal year were 5,233. Those who were ordered to pay restitution numbered 11,456.

Mr. McKessock: What was the 5,000 figure?

Hon. Mr. Leluk: I am sorry; persons ordered to pay was 6,223 and persons with restitution orders totalled 11,456.

Mr. McKessock: What is the difference in those two?

Mr. Evans: It is a carryover.

Hon. Mr. Leluk: The figure of 5,233 I gave was persons with restitution orders at the start or commencement of the fiscal year. There were some carryovers, as Mr. Evans said.

Total moneys ordered to be repaid was \$5,209,484. The actual amount that was paid back was \$2,056,441. Total cases as a percentage of the total probation cases under supervision is 17 per cent. It has been a very successful program. I take it that most payments are made over a two-year period. They are not made within the first year, but it is a very popular program and is becoming more popular with many of the judges.

Mr. McKessock: What happens to the-

Mr. Chairman: Excuse me, Mr. McKessock, could I have the concurrence of the committee that we proceed after one o'clock to clear this matter up?

Agreed to.

Mr. MacQuarrie: Mr. Chairman, before we adjourn there is another matter I would like to raise with the members of the committee.

Mr. Chairman: Fine. Carry on.

Mr. McKessock: Only \$2 million was paid back out of \$5 million in restitution orders. What

happens to offenders who do not meet the payments?

Hon. Mr. Leluk: Some would be defaulted no doubt, but we are talking about the one fiscal year. Some of those would carry over and some of that money would be recovered, I take it, in the next or this fiscal year.

Mr. McKessock: If they default, what takes place then?

Mr. Evans: If the person is in default, the breach of the probation order goes back before the court and the judge makes a decision on whether to accept that it was wilful default. If it is, he is usually sentenced accordingly. Breach of probation under that condition is punishable under summary conviction of up to six months imprisonment and/or a \$500 fine or continued probation.

Mr. McKessock: You say if it is wilful default. Is there any other way?

Mr. Evans: If he has lost his employment and does not have money, the judge could take extenuating circumstances into account.

Mr. McKessock: Extend it.

Mr. Evans: Extend it or relieve him of the responsibility.

Hon. Mr. Leluk: The victim-offender reconciliation program began in Kitchener in November 1979. The program attempts to resolve the conflict between the offender and the victim of a criminal offence through the process of reconciliation. The immediate task would be to correct the harm that is done in a manner satisfactory to both the victim and the offender. There is a third party or mediator in this situation to assist the victim and the offender in communicating and in the problem-solving.

Mr. McKessock: It would be close to the restitution program.

Hon. Mr. Leluk: It is different in that it brings the victim and the offender together with a third-party mediator. Some 15 of these are operating in conjunction with contractual community service orders and restitution programs.

Mr. McKessock: I was just wondering why this program was brought in instead of rather than along with restitution or whatever you want to make it. You must feel there is some advantage to this victim-offender reconciliation over straight restitution.

Mr. Chairman: Do you want to go straight on? Mr. Evans might carry on.

Mr. Evans: The theory behind the victimoffender reconciliation program is the opportunity for the victim and the offender to get together to discuss the harm that has been done, in order that reparation might be achieved between the offender and the victim.

This is a program that is showing some merit in other jurisdictions and we are attempting it here in Ontario. As I noted yesterday in comments to Mr. Swart, this is a program the bench does not seem to be using to the same extent as its restitution programs.

The difference in the restitution program is that if a court makes a ruling about what damages or how much money to pay in restitution, it is then ordered by the court and paid to the court. In the victim-offender reconciliation program, the victim and the offender come to a mutually acceptable and satisfactory agreement.

We believe it also has a therapeutic value for the offender in that he now gets confronted, in a sense, by the victim and understands the difficulties and hardship under which he has placed the victim by his crime.

Mr. McKessock: Do you want to deal with the crisis intervention centres?

Mr. Evans: The crisis intervention program is really a regular activity of probation officers when it is noted that a client may be in crisis. This is a theoretical model developed in the schools of social work. It goes back about 15 or 20 years to what some people will remember as the Coconut Grove fire disaster in which a lot of people were trapped and died in a dining lounge.

They noticed the families underwent severe shock and trauma and developed crisis intervention techniques to deal with this. We find some of these techniques can be applied to correctional clients when they are in a moment of crisis, especially young offenders who, at the moment of their first offence or first court appearance or when we are doing pre-sentence reports, are usually amenable to change.

We also found these techniques useful for people who during the term of their probation may suddenly come into a moment of crisis, either in their family, in loss of employment, break-up of a marriage and so on. These are really social work skills that are applied by trained probation officers intervening in these places.

We are also finding we are able to take these same techniques and use them where we have child and spouse abuse programs in place. We have one in London called Changing Ways, in which some of these techniques are used in counselling group therapy to try to motivate change on the part of the men who batter their

wives. We find it is a very interesting program and continue to work in those directions. That is really a major task of probation.

Mr. McKessock: Thank you, Mr. Chairman and Minister. I appreciate the understanding and the patience of you and your staff in answering some of these questions that are quite familiar to you. I have learned a considerable amount and would hope to be back next year knowing a lot more. I will never know it all, but I think it is a very interesting ministry and would like to help out as much as I can. I look forward to participation in this ministry.

Mr. Chairman: Thank you, Mr. McKessock. We are on vote 1703 and if there are no further questions, shall vote 1703 in its entirety carry?

Vote 1703 agreed to.

Mr. Chairman: That brings us to the conclusion of the ministry estimates. Shall these estimates be reported to the House?

Agreed to.

Mr. Chairman: This concludes consideration of the estimates of the Ministry of Correctional Services.

The committee moved to other business at 1:09 p.m.

CONTENTS

Friday, June 8, 1984

Ministry administration program:	J-193
Main office	J-193
Institutional program:	J-204
Community program:	J-209
Adjournment:	I-213

SPEAKERS IN THIS ISSUE

Eves, E. L. (Parry Sound PC)

Kolyn, A., Chairman (Lakeshore PC)

Leluk, Hon. N. G., Minister of Correctional Services (York West PC)

MacQuarrie, R. W. (Carleton East PC)

McKessock, R. (Grey L)

Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Correctional Services:

Birkenmayer, Dr. A. C., Manager, Planning and Research

Clark, D., Chairman, Ontario Board of Parole

Duggan, J., Executive Director, Institutions Division

Evans, D. G., Executive Director, Community Projects Division

McCarron, T., Executive Director, Planning and Support Services

Podrebarac, Dr. G. R., Deputy Minister



No. J-10





Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General

Fourth Session, 32nd Parliament

Thursday, October 11, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario

Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 11, 1984

The committee met at 3:42 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

Mr. Chairman: The meeting will come to order. We are here today to review the estimates of the Ministry of the Attorney General, referred to our committee on May 17, 1984, by the Legislative Assembly. The time allotted for these estimates is 12 hours. Before we go on, we have mapped out a rough schedule. I would like to read it into the record.

Today, Thursday, October 11, we will deal with the minister's statement. Tomorrow, Friday, October 12, we would like to deal with vote 1501. On Wednesday, October 17, we would like to deal with votes 1502, 1503 and 1504. For Thursday, October 18—has the minister confirmed that he will be available on that date? There was some concern he might not be able to be here.

Hon. Mr. McMurtry: Mr. Chairman, I will be, as far as I know. I think that is fine. Is that October 18 in the afternoon?

Mr. Chairman: Yes, from 3:30 p.m. until six o'clock.

Hon. Mr. McMurtry: That is fine.

Mr. Chairman: That being the case, on Thursday we will deal with votes 1505 and 1506. On Friday, October 19, we will deal with the administrative tribunals program, the last vote. Will the minister please proceed?

Hon. Mr. McMurtry: Mr. Chairman and colleagues, I am pleased to be here for the consideration by the committee of the programs for my ministry for 1984-85. I have remarked on previous occasions, and I think it bears repeating today, that my senior staff and I welcome this discussion in the knowledge that it helps us to ensure the high quality of service we provide to the public.

Four days ago, I marked the ninth anniversary of my appointment to this very important portfolio. On such occasions, one might be inclined to be somewhat retrospective, to count what we believe to be the achievements and at the same time to regret that things did not always work out as well as we had planned. However, although I will be pleased to answer any

questions on past events, issues or controversies, I would like to concentrate in my opening statement on some of the issues that we see as being particularly important at this time in the administration of justice.

In outlining these issues, I want to make it very clear at the outset that I am anxious to obtain the views of all members on some of these complex matters. I refer specifically to four issues: hate propaganda and its dissemination; pornography and its distribution to virtually every corner of Ontario; family violence, which is causing physical and emotional scars to thousands of females and children; and drinking and driving, a preventable and tragic phenomenon that kills more than one person in Ontario every day, injures 81 more and traumatizes hundreds.

I would like to add to that list the difficult issue of street soliciting in the context of prostitution, which I will deal with later in my statement.

These issues are not just legal problems. All stem from deeply rooted societal and personal conditions. The law is called upon to intervene and react, and our legal system will have to develop the expertise and tools to respond better and more effectively than it has in the past. At the same time, we recognize that the law and the justice system alone cannot solve these problems, but along with other community resources they can and must play a crucial role.

I hope to engage the members, particularly my critics, in a discussion of these issues as I outline our views. Before doing that, I want to pay tribute to my critics from the opposition parties, the member for Kitchener (Mr. Breithaupt) and the member for Riverdale (Mr. Renwick). I have often sought out their opinions, and even when I disagreed with them, I knew their contributions played a major part in the advancement of the administration of justice. Both have made thoughtful and even scholarly submissions and have gained the respect of all my colleagues in the ministry. Having said that, I will now move on to the issues I enumerated a moment ago.

First, I would like to deal with hate propaganda; few social and legal problems have concerned me as much since I became Attorney General in 1975. Before being elected that year, I had the pleasure—not total, obviously—of being the target of one of the groups responsible for the

purveying of hate material as a result of a successful prosecution I had conducted against the Western Guard.

As a result of our concern in the area particularly of hate telephone messages, we were able to persuade the federal government to amend the federal Human Rights Code to provide a process for outlawing hate messages. This was done when Mr. Ronald Basford was the Minister of Justice, and his response to what was largely a Metropolitan Toronto issue is one I shall always appreciate.

This is an issue against which I, together with many others, have spoken out on countless occasions. We have spoken out about bigots whose rantings too often go unanswered. Since 1976, I have been circulating directives to my crown attorneys reminding that any criminal offence motivated by racism should be treated as a particularly serious offence.

At my direction, one particular case was taken to our Court of Appeal, and in a strongly worded judgement Mr. Justice Dubin agreed with our submission that any racially motivated attack should be treated particularly seriously because it attacked the very social fabric of the community and that any sentence in such case must reflect the abhorrence of the community as a whole for these activities.

3:50 p.m.

Members will also recall that I appointed our former colleague Mr. Patrick Lawlor, QC, to assess existing procedures and legislation dealing with hate propaganda. Mr. Lawlor indicated that the question of how to control hate material defies simplistic solutions. It involves fundamental matters of freedom of speech on the one hand and our wish on the other hand to develop a sensitive and compassionate society that responds to the propagation of hatred towards minority groups.

Mr. Lawlor's study directs our attention to three proposals. The first is the creation through legislation of a tort, a civil wrong, to more readily enable groups of citizens who have been subjected to hate propaganda to seek redress in the courts through civil action against the purveyors of the material. This, in effect, would be a class action. The second, also a class action is an amendment to the Libel and Slander Act to permit civil actions by groups for defamation. The third is an amendment to the Ontario Human Rights Code to enable individuals or groups of citizens who feel they have been defamed as a group to seek relief.

Mr. Lawlor suggests that this third option may be the most useful. It would be the simplest and most expeditious and would provide access to the conciliation services of the Ontario Human Rights Commission which, he notes, "seeks to heal wounds not by punitive and vindictive sanctions but by persuasions and conciliations." This option could also include the use of cease and desist orders to halt the spread of defamatory material and the use of court injunctions to enforce them.

I personally favour Mr. Lawlor's third proposal, and while it and other matters are under consideration by the government, progress has been made on other fronts as well. For example, in April 1984, the Deputy Attorney General wrote to the chief of the Metropolitan Toronto Police and to the commissioner of the Ontario Provincial Police and proposed the establishment of a special task force staffed by senior investigators of both forces to investigate and co-ordinate law enforcement activities in this regard.

I am pleased to report that the special unit is now operational. Its purpose is to develop greater investigative expertise and to maintain liaison with investigators elsewhere in Ontario and throughout the world so that information can be gathered on the distribution network for such material, much of which is produced beyond our jurisdiction. The Ministry of the Attorney General is assisting the special unit with legal advice whenever required, and a number of senior criminal law officials are involved on a continuing basis.

I am confident this special unit will lead to greater success in investigations relating to the spread of this material and to effective prosecutions where possible. But, as many members know, there are major obstacles to prosecution in the law as it is written. There has been particular concern across Canada in recent months about material written and distributed by Ron Gostick and, in particular, a tract entitled The Keegstra Affair. I can advise members that the OPP and six senior officials of my ministry have been involved in an intensive review and analysis of all of this material and its publication and circulation.

We have, as I stated before, communicated our concerns to the federal Minister of Justice in relation to the difficulties with prosecutions under the Criminal Code of Canada. Furthermore, I personally appeared last fall before a parliamentary committee to outline these problems in detail.

The best evidence of the significant obstacles to a successful prosecution is the fact that there has yet to be a successful prosecution under the hate literature provisions of the Criminal Code anywhere in Canada, except for our case of the Buzzanga and Durocher trial, which was overturned in the Court of Appeal. We have pointed out that for effective prosecutions to be launched, the significant list of defences contained in section 281.2 of the code has to be reviewed, eliminated or at least substantially amended.

We invited the federal authorities to consider amendments similar to those made to Britain's Race Relations Act in 1976 to overcome similar problems that existed under previous British legislation. The very heavy onus in the Canadian legislation on the prosecution to prove the wilfulness of the accused is similar to the problem encountered in Britain, which the British authorities stated really placed the police in an impossible position.

I would like to expand for a moment on some of the difficulties mentioned above and to refer to others.

First, in the Buzzanga and Durocher case, which involved the dissemination of material offensive to the francophone community in southwestern Ontario, although our prosecution was successful at the trial level, it was reversed by the Court of Appeal. This has become the leading case on this issue. The case makes it clear that the crown must prove beyond a reasonable doubt that the accused wilfully intended to promote hatred against the identifiable group or prove beyond a reasonable doubt that the accused foresaw that the promotion of hatred against that group was certain or morally certain.

Proof beyond a reasonable doubt of either of the requisite mental elements is not without some real difficulty. Mr. Justice Martin in Buzzanga and Durocher has pointed out that in any case where the prosecution is required to prove that the accused intended to bring about a particular consequence or foresaw a particular consequence, the question to be determined is what was in the mind of the particular accused and the necessary intent or foresight must be brought home to the accused subjectively.

To determine what was in the mind of a particular accused is not an easy matter and must be determined after consideration of all the circumstances. The Court of Appeal expressly held that an intention to create "controversy, furore and uproar" is not the same thing as an intention to promote hatred.

The second major obstacle faced by the investigators and the prosecution is the fact that specific defences apply under the law in addition to the general defences that are available in any criminal case. Members may recall that when Parliament was debating this issue almost 20 years ago, a good deal of attention was given to concerns about possible curtailment of freedom of speech represented by the legislation. For this reason, a number of specific defences were enumerated. They are, briefly, as follows.

Paragraph 281.2(3)(a) provides that no person shall be convicted of offences under the section "if he established that statements communicated were true." Many statements, although true, can be weaved together and placed in à context to be undoubtedly capable of raising the inference that the accused wilfully intended to promote hatred by using them. Yet because the statements were true, the accused could not be convicted. Many of the statements, for example, were made in the context of the founder of Christianity.

Paragraph 281.2(3)(b) provides that no one should be convicted if the individual "in good faith...expressed or attempted to establish by argument an opinion upon a religious subject." Quite apart from the fact that the burden is probably on the crown to show that the accused does not fall within this section, the ground itself is obviously very broad. The good faith element is subjective and provides no protection at all against the fanatic. It goes without saying that opinion on any religious subject is usually very broad. In the past, an extremely high percentage of the offensive material that has been examined did in fact involve statements or opinons on a religious subject.

Paragraph 281.2(3)(c) provides that the accused shall not be convicted "if the statements were relevant to a subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds the accused believed them to be true." The difficulties with the accused on reasonable grounds believing the statements to be true should be obvious. There may be a real dispute about the truth of certain statements, but the accused may on reasonable grounds believe the statements to be true because, for example, of the misinformed writings of others.

Paragraph 281.2(3)(d) provides that no accused shall be convicted if in good faith he intended to point out matters "tending to produce feelings of hatred towards an identifiable group," if he pointed them out for the purpose of removing hatred towards that group. While that

was obviously a well-intended provision of the code, our experience has demonstrated that an author can so word his writings to have the statements or communications fit within this provision. In fact, in certain writings, explicit statements indicating that the author was writing to assist in removing hatred were contained in the offensive material. Again the question of where the onus and burden lies is open, but at least by virtue of subsection (a), one can infer that it is an element that the crown must negate. There are also arguments that will be made in the context now of the freedom of expression provisions in the new Charter of Rights.

In our investigations we have also encountered some difficulty with the concept of "identifiable group" as defined in the legislation. It can be argued that the definition is too restrictive. For example, we have examined literature where a strong argument could be made by the accused that whatever his intent and whatever the effect of the statement or literature, the comments were directed solely to a certain segment of a racial or religious group. Even though the effect of the statement would tend to produce hatred against all portions of the group, it is the view of our law officers that in these circumstances the accused cannot successfully be prosecuted. The word "Zionist," which is quite broadly used in some of these disgraceful publications, is an example of this particular problem.

4 p.m.

Another difficulty involves efforts to trace the connection between an accused or potential accused and a specific piece of material. In many cases, the material is in the form of pamphlets or leaflets and is distributed anonymously. It is simply impossible to connect the material with any particular group or individual. Some such material has been in circulation for 40 or 50 years. Tracing information to particular organizations in some circumstances may not necessarily be difficult. The difficulty relates to singling out the specific members of the organization and those involved in or responsible for the distribution as opposed to the organization as a whole.

A study of the history of this legislation indicates it was thoroughly debated at the time and represents compromises between competing interests and competing points of view. What was seen to be an appropriate legislative response to this issue in the mid-1960s is clearly unworkable to meet the problems we face in the mid-1980s. This issue was the subject of recent discussions with my provincial and territorial counterparts in the Yukon, and I expect we will

have specific proposals to make to the new federal Minister of Justice when we meet later this fall.

Before leaving this point, I want to stress that I know the law alone is not enough to provide protection from malevolent people or groups propelled by hatred for those who are different in appearance or who profess a different belief. While it is true that no law can stamp out bigotry, hatred and madness, nevertheless it is equally true that these will flourish the more for lack of any law against their flourishing. Those of us elected to represent the public must make it abundantly clear at every possible opportunity that the kind of material at issue has no place in a compassionate, civilized and pluralistic society.

While the solutions to the dissemination of hate propaganda are not easy to come by, there can be no doubt about its effect on some of our neighbours and the need for all persons of good will to act to alleviate the pain it causes. In his study, Mr. Lawlor offers an assessment of the

impact of such material. I quote:

"When we were children growing up in a seemingly more innocent world than the present, we used to chant, 'Sticks and stones may break my bones, but names will never hurt me.' With a little added knowledge of psychology and the experience of a great deal of history, we have sorely learned that just the opposite is the case. Sticks and stones may in circumstances mean very little; but words may lacerate a human being. As Yeats sang sadly, 'There are words that will break your heart.'"

I would like to turn our attention to the spread of pornography and to the obscenity provisions in the Criminal Code. For several years we have been seeking stronger federal legislation to deal with this material, its importation from the United States and Europe and its spread within our borders. Of particular concern is the increase in child pornography and pornographic depictions of the most extreme physical violence.

I set out in detail before this committee last year some proposals for changes in the Criminal Code sections on obscenity, so I will not go into them in detail again. I met with my counterparts last month and we agreed to raise this issue with the new Minister of Justice. As well, at their annual meeting last month the ministers responsible for consumer matters also agreed on the need for strengthening the code in this regard.

I remain convinced of a link between the portrayal of violent and pornographic acts in entertainment and the perpetration of similar acts on innocent and unsuspecting members of our society. In my statement here last year I set out some of the scientific and academic research that now seems to support that link.

In this very community we have seen in recent weeks the tragic consequences of a troubled young mind appearing to act out on our streets a violent episode from a movie. Therefore, to suggest, as some still do, that there is no connection between life as portrayed on television or the movie screen and life in reality is to ignore the obvious, to disregard the tremendous power of these two methods of communication. An inquest is scheduled into the most recent case, and I am pleased the chief coroner will use it as a tool to explore this and related issues and in doing so inform and educate the community.

In addition to this type of violence, we have come to realize that domestic violence, violence within many homes in our communities, is something to which we must more effectively respond. For our part, the ministry has taken several initiatives. I have issued to my crown attorneys a number of directives in relation to family violence.

The directives and my meetings with crown counsel had two main purposes. The first was to signify that violence within the home was no less serious than violence elsewhere. In fact, because the victims are often captives of the relationship, domestic assaults can be seen to be even more serious than assaults by strangers.

The second purpose was to bring the full power of the law to bear upon this regrettable situation. Crown attorneys have been told that they are to instruct the police forces in their jurisdiction to give family violence cases a high priority and, where possible, to lay the charges themselves.

As well, crown counsel have been advised to prosecute domestic assault charges with the vigour they deserve. Furthermore, they are not automatically to withdraw the charges at the victim's request. This part of my directive does not tie the hands of prosecutors or lessen their discretion. It merely gives them a guideline against which to determine requests from the victim to withdraw the charge.

Under these new procedures, we have sought to treat family violence cases not only as an offence against the family member who is injured but also as an offence against society as a whole.

As part of our continuing initiative to give the problem of family violence a high priority within the justice system, I have designated more than 50 crown counsel to develop further expertise on domestic violence with the aim of improving

assistance to victims and prosecuting offenders where appropriate.

In the office of the crown attorney in every county and district of Ontario at least one prosecutor has been designated the specialist in family violence. The designated person will receive training in dealing with the special problems faced by victims of domestic violence through regional seminars to be conducted by the ministry, the Ontario women's directorate, the Ministry of the Solicitor General and the Provincial Secretariat for Justice.

The specialists will be available to offer advice, assistance and prosecutorial expertise to victims of domestic assault. As specialists, they will be familiar with local resources available to victims and will help obtain assistance from appropriate social agencies in the community.

The specialists will work closely with police forces to ensure the active and vigorous investigation and prosecution of domestic assault charges. If advice on other legal matters is required and the victim is unable to afford a lawyer, the specialist will assist in obtaining legal assistance through the Ontario legal aid plan.

Domestic violence is without question a serious social problem for which the law can provide only a partial answer. However, the law can be a forceful statement on behalf of society that the stronger members of a family unit can no longer bully and abuse the weaker with impunity.

Before turning to the issue of drinking and driving, I had intended to have a reference here—it is a regrettable omission—to the Badgley report in the context of sexual abuse of children.

The domestic specialist we referred to in relation to family violence also relates to expertise we are developing in the context of abuse against children, sexual or otherwise. Relatively few of these cases get to court, unfortunately, because of the great problems of detection and of the reporting and the gathering of evidence. We in the ministry are reviewing the Badgley report and the recommendations very carefully, as many of them obviously touch on the administration of justice.

The Minister of Community and Social Services (Mr. Drea) established the Ontario Centre for the Prevention of Child Abuse a year ago. It is an initiative which also involved myself. The Minister of Education (Miss Stephenson) and I are two other members of the cabinet on that board of directors. The Ontario Centre for the Prevention of Child Abuse is involved in a number of community programs,

most particularly education in this very important area.

I did not want the omission of a specific reference in our opening statement to indicate or suggest that this matter has not been given a high priority.

4:10 p.m.

I will now outline some of our initiatives in relation to drinking and driving.

Members will recall the establishment by the Premier (Mr. Davis) of the interministry task force on drinking and driving and the thorough and thoughtful report produced by its staff working group. Eleven months ago, in November, we assembled interested persons from throughout Ontario at a conference here in Toronto to determine what local efforts were under way, what might be most effective in each community and what supportive role the Ontario government could take.

The task force recommended, and I have now established within my ministry, a drinking-driving countermeasures unit. The purpose of the unit is to monitor various community activities, to co-ordinate efforts and share experiences and results with other groups and to stimulate novel community approaches.

Subsequently, the president of the Association of Municipalities of Ontario, Alderman Marlene Catterall of Ottawa, and I wrote to all local governments urging the establishment by mayors or councils of local committees to devise ways to combat drinking and driving in their communities. As our colleagues know, I also wrote to every member of the Legislature in this regard.

So far, more than 60 communities have responded and we are beginning to see a wide range of activities develop. It is important to note that most of these initiatives are being conceived and carried out locally by community groups, concerned individuals, service clubs and police forces.

I strongly believe that through this approach we have the real potential to see a change in public attitudes that will make drinking and driving simply socially unacceptable.

In a few weeks the countermeasures unit will begin publication of a newsletter to circulate among those committed, as I am, to confronting this problem. The newsletter will permit an exchange of ideas and experiences among the various community groups and encourage those not now participating to become involved.

Next month I will be hosting a conference of several hundred individuals from all parts of Ontario, and every endeavour will be made to

exchange ideas and to learn from various experts we will have available. In a few weeks I hope to be able to announce my ministry's participation in a rather novel community-based program involving neighbourhood pubs and restaurants, taxi companies, local elected representatives and many others.

In addition, we will have available this fall a film to relate graphically to the widest possible audience the consequences of drinking and driving. This film has been made with the assistance of a number of people who have been injured by drinking drivers, who have lost family members in accidents involving drinking drivers, who have been convicted of drinking-driving charges themselves and who have gone on ambulance, police and fire department calls literally by the thousands to the scene of tragic collisions and wrecks caused by drivers who drank too much.

Quite frankly, my purpose in commissioning this film is to give the victims of drinking and driving a platform from which to bring home to the general public in a more meaningful manner the fact that drinking and driving has terrible consequences which last a lifetime for thousands of Ontarians and, indeed, fellow citizens across Canada.

I again urge each member of this committee to become involved in the programs that have begun or are beginning or starting up in their communities. I assure them that the staff of my ministry will assist in every way possible. I see our role as providing resource material, such as the film and publications, arranging conferences and providing staff to encourage local projects. We know the projects that will have the most impact are those initiated within a community by people with a direct stake in that community. What will not work are projects imposed from outside.

Besides activities of the nature I have mentioned, the ministry has also been active in its more traditional function of vigorously prosecuting persons charged with drinking and driving offences.

Members may have read in the press of a decision we made to get tougher on repeat offenders. It had apparently become the general practice for the crown to introduce driving records of persons convicted within the previous years of a drinking-driving offence. I should ad lib to state that our crown attorneys were originally instructed that where the conviction occurred outside the three-year period, there was a discretion to treat the subsequent offence as the

first offence. As often happens, given the number of factors, this discretion apparently turned out to be the rule rather than the exception.

In any event, that practice has been changed on my directions to include any prior record of impaired driving. Crown attorneys will go back over all previous convictions, no matter how long ago they occurred. This means more repeat offenders will be going to jail. Many members of the public are not aware that the Criminal Code provides for a mandatory minimum sentence of 14 days on the second offence and three months on subsequent offences plus licence suspensions and possible fines.

I can also advise the committee that, together with the other provinces and territories, we are seeking ways to simplify the procedures for introducing records of convicted drinking drivers. We want to avoid the situation, for example, where a person from New Brunswick with two previous convictions is treated in Ontario as a first offender because of administrative difficulties in producing his record in an Ontario court. In fact, even within Ontario there can be problems in verifying a record for drinking and driving convictions. We are exploring ways of correcting this situation and we may be proposing changes to the Criminal Code when we meet the federal Minister of Justice in a few weeks.

I would like to depart again from my statement to acknowledge that all members of the Legislature have been very concerned with the tragic consequences of alcohol abuse on the highways for many years. I know that many of my fellow legislators have been involved in programs of one kind and another, notwithstanding the apparent frustration of being able to alleviate this tragic phenomenon.

The members of the Legislature have also participated in other important initiatives related to highway safety that have not been always popular, most particularly seatbelt legislation and reduction of speed limits.

Many of us from time to time have felt that we have somehow been caught up in a statistical straitjacket in that as long as people are driving vehicles, with or without alcohol in their system, the tragic consequences of deaths and serious injuries are inevitable. To some extent at least, that is unfortunately so.

However, thinking of the efforts that have been made in terms of programs of one kind and another, I was very encouraged, as I am sure all our colleagues were, by statistics released by the Ministry of Transportation and Communications which stated that for the year ended June 1984, if I am correct, fatalities on our highways were in the vicinity of 1,200.

I am not suggesting there is a direct causal relationship, although I would like to think there may be a modest one, in that in the year I assumed my responsibilities deaths on the highway were approximately 1,800. It is a very significant reduction that has taken place, not only in Ontario but in some other jurisdictions as well. However, in Ontario the reduction has been quite dramatic.

In the context of the many campaigns that have been waged against drinking and driving and alcohol abuse on the highways, I was very pleased that the research people at the Ministry of Transportation and Communications at least credited the various drinking and driving campaigns that have been carried on as being responsible in part for the reduction in the loss of life.

4:20 p.m.

This reduction, which was quite significant just in this one year, 18 per cent, should also be considered in the context that the actual miles being driven were more; so it is not related to any reduction in miles. Those members who are involved in these drinking and driving countermeasure programs can all take some satisfaction that this very difficult, frustrating effort is paying some dividends.

The Deputy Attorney General just gave me a note that says, "1975, 1,800 dead; 1983, 1,203 dead." None of us was very popular, as I well recall, in relation to the seatbelt legislation. That is obviously related to it as well.

Despite the frustration we face sometimes in attempting to play our role in creating attitudinal changes in the community, there are some obviously very encouraging signs when we look at those statistics. At the same time, the number of dead and injured is still distressingly high.

Another item that I said at the outset I would like to touch on in my opening statement is that which has been raised by several members, as well as by police authorities, municipal leaders and concerned citizens; namely, prostitution. I want to talk about prostitution in the context of street soliciting as opposed to other perhaps more subtle and discreet forms of prostitution which have been with us since the beginning of time.

Within a few blocks of this Legislature, we can see evidence of the failure of the existing federal law to deal with this issue and the problem it presents for people who live in the neighbourhoods where prostitutes congregate.

The existing section 195.1 of the Criminal Code is deficient in three major aspects.

First, there is the requirement enunciated in Hutt versus the Queen, a Supreme Court of Canada decision that in order to constitute an offence under section 195.1 there must not only be a demonstration by the accused of an intention to be available for prostitution but also conduct which is pressing or persistent. It is the words "pressing or persistent" which are very important. This interpretation has seriously impaired enforcement of the section, particularly in large urban centres.

Second, there is the requirement that in order to constitute an offence under section 195.1, soliciting must be in a public place as defined by section 179 of the code.

Although I understand the rationale of this requirement, the interpretation placed on it by the majority judgement in Hutt, that a motor vehicle on a public street is not a public place, is unacceptable and is in conflict with the spirit and intention of the existing section.

Third, there is the inability to prosecute the customer in some provinces. In Ontario, by virtue of the cases of Dipaola and Palatics, decisions of the Ontario Court of Appeal, a customer can be charged and convicted of soliciting. Unfortunately, this position has not been adopted across Canada. For example, there is the case of Dudak in the British Columbia Court of Appeal which rules otherwise.

In the interests of uniformity, it is my view that the section ought to be amended to provide that the offence of soliciting may be committed by either the prostitute or the prospective customer regardless of the sex of either.

The federal government has issued background papers and appointed study groups to pursue this matter. We have made specific proposals to Ottawa on several occasions over the last six years, as have police and local government representatives across Canada. Regrettably, the government refused to act expeditiously. I am hopeful the new government will be more responsive, and this is one of the items my provincial counterparts and I will raise with the new minister when we meet.

I should say at this point that I am encouraged by statements by the new Minister of Justice, the Honourable John Crosbie, that he is giving this matter a high priority. Again, I would like to depart from my text to emphasize that what we are concerned with is prostitution in particular, which represents not only a significant nuisance in a particular neighbourhood but which has also

been demonstrated to seriously undermine the quality of life in the neighbourhood.

We have seen what has happened in British Columbia where in an unprecedented case the Chief Justice of the High Court of British Columbia accepted uncontradicted evidence of the extent to which certain sections of the community had deteriorated to a very significant degree. It is not just the presence of relatively aggressive prostitutes. Even when they are not aggressive, prostitutes, at least in North America and certainly in Canada, have traditionally attracted organized crime in general.

This does not mean that every person engaged in prostitution is associated with organized crime, but the evidence is overwhelming that a very large percentage of active prostitutes are very much a part of organized crime. This does attract a great deal of much more serious criminal activity and has been demonstrated to have the capacity to seriously undermine the quality of life in any community and seriously interfere with the rights of individual citizens to walk their streets without being accosted, mugged or worse by people who are involved in this activity.

Recently, and this is but one example, leaving Metropolitan Toronto aside, the mayor, members of the council and the city solicitor from Niagara Falls were in my office graphically outlining the extent to which a major section of their business community was being undermined by busloads of prostitutes, many of whom were coming across the border, and the extent to which ordinary business people, small businessmen, were being very badly hurt economically because of the fact that ordinary citizens simply were not prepared to patronize their establishments.

I want to emphasize this fact because of those people who feel that our concern about street soliciting is some sort of out-of-date Victorian attitude that is not realistic and that what people do in private is really no business of the state. They should understand that what we are emphasizing is that what is done in public represents very much a serious threat to the wellbeing of communities.

It was some famous Victorian lady who said she could tolerate almost anything as long as they did not do it in the streets and frighten the horses. I do not say that the horses are being frightened, but the streets are obviously deteriorating as a result of activities that are now very difficult to prosecute.

Before concluding, there are two or three other items I just want to refer to very briefly. Members will recall my previous statements

about the importance of the legal aid plan. I will not repeat those statements today, but I would like to applaud one important recent development. For years I have been urging members of the legal profession to demonstrate a stronger interest in and commitment to legal aid.

I am delighted that the new president of the Canadian Bar Association, my former classmate, Claude Thompson, QC, has decided to make legal aid his number one priority during his term of office. It can only serve to heighten public awareness of the importance of legal aid and to strengthen the hand of those of us who have fought for this issue over the years.

As you know, Mr. Chairman, two pieces of federal legislation, the Charter of Rights and Freedoms in our Constitution and the Young Offenders Act, are having an enormous impact on our justice system. Both were designed to protect and enhance the rights of individuals before the courts and their effect on the system is being felt more every passing day.

I do not propose to discuss these developments in detail as we have spent time on them previously. However, my officials and I will answer any questions and obtain any information available with respect to these important matters.

I want to pass on what I believe to be another of our success stories. That is the increasing role of women in the ministry. A key part of our affirmative action program is the hiring and promotion of women to major administrative and legal positions. Generally, we are exceeding our targets in this regard.

Let me give some highlights. In the past year, the wage gap between the average male and the average female was closed by 5.4 per cent. Of the 185 assistant crown attorneys, 28 are now female.

4:30 p.m.

Mr. Breithaupt: Were they not female before?

Hon. Mr. McMurtry: Not all assistant crown attorneys were female.

Mr. Breithaupt: You said "28 are now female."

Hon. Mr. McMurtry: Oh, I see. Yes, 28 of those positions are now held by females. Thank you.

Mr. Breithaupt: That is badly worded, Mr. Minister.

Hon. Mr. McMurtry: The percentage of women in key legal job categories is increasing steadily. In conclusion, it is also useful to put this ministry's spending estimates in perspective.

Last year my ministry had expenditures totalling approximately \$261 million. They were as follows: the courts, more than \$129 million, almost \$130 million; legal aid, \$59.6 million; criminal law, \$25.2 million; boards and commissions, \$17.9 million; civil law, \$13.7 million; administration, \$12.9 million. Our expenditures in total represent one per cent of the government total.

On the other side of the ledger, revenues from fines, fees and cost-sharing programs totalled \$162 million.

I am sure we all agree the justice system I superintend is crucial to the free functioning of our democratic society and the resolution of our disagreements. For the amount spent, society reaps an enormous benefit.

Thank you, Mr. Chairman. That is my opening statement. There are a number of other very crucial issues facing the administration of justice and an omission of a specific reference to them in my opening statement does not in any way downgrade their significance. I am sure many of these issues will be raised by our distinguished critics and other members of the committee as we proceed through these estimates.

Mr. Chairman: Thank you, Mr. Minister. Now we will turn to the critic for the official opposition. We have both critics today and we are hoping to keep on schedule. That will mean roughly 35 minutes each. I will let you watch the clock.

Mr. Breithaupt: Thank you very much, Mr. Chairman. With only 12 hours in these estimates, I certainly hope we will be able to complete the opening comments this afternoon.

Now that the committee has adopted the schedule I had suggested, I think it will be much more convenient for all of us involved. Not only our colleagues who may have a particular issue that might be of interest to them, but also members of the staff of the Attorney General will know on what dates they are expected to be here if they are concerned with particular votes and can plan their futures accordingly.

I agree with the Attorney General that the justice system he superintends is crucial to the free functioning of our democratic society. With regard to that, I should first congratulate him on the ninth anniversary of his appointment as Attorney General of Ontario.

I think it is also worthwhile to remind honourable members, if they were not aware, that our Attorney General is also now the proud holder of an honorary doctor of laws degree which was conferred on him on April 9 this year at the call to the bar ceremony of the Law Society of Upper Canada.

It so happened, in looking through a variety of things on my desk today, I came across the issue of the Law Society of Upper Canada Gazette for June 1984 and read with interest his remarks, entitled "The Tradition of Service," given at the convocation. I would recommend them to other members of the Legislature who are interested in attempting to consider the involvement not only of lawyers in their daily legal work, but also the importance of an involvement in public service, an area in which I suppose all of us have had some experience, those of us who have been called to the bar and who have also been involved in our communities in that capacity.

I recognize in the comments the Attorney General has made in his opening statement that he has been able to deal with only a number of the particular subjects of interest to us in the ministry.

I agree with the approach he has taken to hate propoganda and have arranged to meet with our friend Patrick Lawlor, now that the session has begun again, to prepare for what may develop with respect to changes in our law.

With respect to pornography and family violence, these too are themes that are of particular concern, as is the one of prostitution. The particular areas of drinking driving and legal aid, I want to refer to in a somewhat greater length in my opening remarks.

However, the first issue we have to address today is the difficulty that is arising within our society as a result of the deaths of five policemen killed in Ontario in recent weeks. I am sure that is a concern to each one of us for a great variety of reasons.

Commissioner Ferguson referred to the theme of open season on policemen right now. I hope that is not the case. When we are dealing in a number of these instances with persons who appear to have been mentally unbalanced and disturbed, one would question if capital punishment as such would have at all crossed their tortured minds; that may not in any way be an automatic solution to the kinds of stresses and strains which appear to be apparent in our society.

In the press today alone, I noticed two rather interesting articles, one in the Globe and Mail by Professor Robert Martin of the University of Western Ontario who sets out the variety of traditional arguments that are favourable to and

oppose capital punishment in the traditional way that it has been imposed in Canada.

His comment ends up as follows: "Canada is, by international standards, and especially by the standards of our neighbour, a remarkably tranquil place. Organized systematic threats to public order (if one discounts certain activities of the RCMP) do not exist. Murder in Canada is overwhelmingly the result of spontaneous, unplanned outbursts of violence. Indeed, prohibiting the consumption of alcohol would be a far more effective way to eliminate murder than the reintroduction of hanging."

We have an interesting concept within that argument that he makes, which ends with the view that he sees no rational argument in favour of its reintroduction.

Whether there are rational arguments or not, there are certainly a number of political arguments being advanced and strong interest being expressed in certain quarters as to what should be done. The contradiction, expressed in the Toronto Sun this morning, of the views of our Provincial Secretary for Justice (Mr. Walker) and the Attorney General, highlight the differences of opinion.

I say quite openly, of course, each set of views is quite honestly and honourably expressed. I do not quarrel with the opinions expressed. I prefer the view of the Attorney General with respect to the matters of parole, the dealing with violent criminals, the matters of violence in pornographic materials, and the approach he has suggested with respect to some guidance or guidelines being accepted, particularly with respect to movies and television and the expression of extreme, wanton, physical violence.

4:40 p.m.

I recall some comment—and if it is not something like this, perhaps it should be—that the average American child sees several thousand murders in his early years on watching television. Of course, many of them may be reruns, but all that aside, the traditional cops and robbers approach, or cowboys and Indians or whatever it might have been we played as youths, did not attract with it the residual acceptance of the violence we are bombarded with every night on television.

Whether it is the variety of detective programs or the other popular movies that seem to attempt to outpace each other in the gory depiction of violent death in a variety of extreme ways, we become almost inured to that kind of approach and lose all sensibilities. For those of us not under any mental pressures, it is simply a story;

but I do not know whether a child looks at it in that light. He may look at it as being normal conduct.

Certainly, the three or four young men who have been involved in the murders of police constables in this province within the last few months appeared to have been influenced not only by a variety of strains within their own lives and within society as they saw it but also fairly directly by particular occurrences in films or in other materials they had available to them.

Here is a headline that says, "High Level Meeting on Noose Urged." That is the usual reticence of the Toronto Sun, of course. As the Attorney General now proposes to meet with his counterpart, Mr. Crosbie, and his colleagues across the country, I am quite sure this too is going to be a theme. It apparently is not of as high a priority to Mr. Crosbie as it is to some of his colleagues, but is one that calls the structure of our society into play.

As far as I am concerned, where a policeman or prison guard is murdered in the function of duties they perform, where it is a matter of treason or sedition, where it is a matter of a contract killing and premeditated murder, I have no difficulty in saying a life can be forfeited. I recognize that in most of the cases where violent death has occurred, the people are quite well acquainted; it is very often a domestic matter or a matter of mental unbalance. Clearly, in those situations, capital punishment might do nothing to remedy a difficult scene.

There will be high-level meetings on these subjects over the next few months. They will be difficult to resolve because in their whole aspect they call into question many of our traditional values. Unfortunately, one sees lines and lines of police officers drawn up outside various churches across this nation far too often, and particularly across the country to our south. There are strong feelings. As the Attorney General is able to bring his own personal experiences in these matters before his peers, his colleagues and all the members of the House, I hope he will be given the wisdom to attempt to resolve these problems, along with the others in authority who are given this responsibility.

Of other topics the Attorney General mentioned in his opening remarks, the two themes of drinking driving and legal aid are ones on which I would like to spend a few minutes.

In Canada, some 2,500 people a year are killed by drivers under the influence of alcohol and some 30,000 to 50,000 others are injured in alcohol-related accidents. The jail terms that are imposed apparently deal with only about 10 per cent of the drunk driving cases and, as the Attorney General noted earlier from the recent task force report, the deaths of perhaps two persons a day and some 81 motor vehicle crashes per day in Ontario are alcohol-related.

It almost takes us back to the aircraft fire down in Cleveland in which, as I recall, some 23 persons were killed. Yet as we compare those numbers with the thousands of those injured by alcohol-related accidents—indeed, 2,500 or so persons killed; it is true that Ontario's numbers have been falling and that is great—but if it all ever happened on one day as opposed to being scattered across the entire year, surely the public outrage would be such that many more persons would be mindful of the dangers and the difficulties that occur daily as various people are loose on the streets.

I commend the Attorney General for the drinking and driving countermeasures conference he is going to be holding in November; and that now has developed from an original project to, as he had said, some 50 or so communities that are actively involved at the present time. It is my hope more will become involved. The commitment that the ministry clearly has to turning this conference into an ongoing, activist involvement of volunteer groups and municipal authorities across the province is to be commended.

We have seen the recent developments with the new policy directive, which is designed to ensure that at least those persons who are convicted of drunk driving and facing a second offence are going to spend some time in jail. I do not know whether the zeal with which that program is approached is matched by the anxiety of the Minister of Correctional Services (Mr. Leluk) to receive all these new guests, but I suppose this is something that will have to be worked out.

The consideration of drinking and driving offences as matters of concern for the courts when those offences have occurred in the past five years rather than in the past three years is a step forward. The second offence is going to require a maximum 14-day jail term. Again I presume that in the Attorney General's meetings with the new federal Minister of Justice this 14-day term probably also will be up for review, and perhaps it should be.

The first-offence penalties, which ordinarily range from \$250 to \$500, are no longer adequate, in my view, to get the attention of the person that should be demanded where this kind of offence

occurs. I recognize that probably each one of us in this room on one occasion or another in our lifetime of driving may have been subject to being stopped and charged with certain offences in respect of the consumption of alcohol. Probably for a number of us it was more good luck than good sense. However, now it would appear that good luck is no longer going to be sufficient in Ontario, and the attitude is changing. Clearly, the change is for the better. Some of the discretion on the part of crown attorneys is going to be constricted.

The matter of the introduction of prior convictions and the approach to making those prior conviction records readily and more easily introduced from one jurisdiction to another on a fair and secure data base is something which, with our computer opportunities, we should be able to achieve without a great burden.

4:50 p.m.

Perhaps, as I have said, a 14-day sentence is too lenient. It may be that this kind of offence is going to require that a greater penalty be paid to get the attention of the person who is involved. Comments have been made about the cancellation of licences on a permanent basis. I find that a bit extreme in terms of getting a person's attention, when it may well be that an entire job prospect or a variety of other business or social opportunities are simply destroyed. However, penalties and terms involving suspension of licence, even for a period of time, may also be required in order that the public, through the media and the reporting of these issues, is going to know that people are treated seriously by the courts.

I may be wrong, but it seems to me that in the past few months the number of reported cases in a variety of media, particularly in newspapers through the clipping services we receive, shows that provincial judges around the province appear to be getting quite generous in their awards of sentence. Whether it is a matter of a fine or one of licence suspension, not only do the articles appear quite thoroughly written up but also the comments made presumably must reflect the stronger personal attitude that this matter has got to be attended to.

Whether it is the carrot or the stick that is working, I am pleased to see that those who serve on the provincial bench, and of course that would have an influence on the county bench as well, are becoming much more mindful of society's change of opinion on this whole theme. I applaud the involvement.

Certainly there is going to be a requirement for sufficient information to be brought before the courts on a secure data base, as I have suggested. If that can be done, so there is no question of difficulty of identification and the date of the offence or the conviction for an offence, then these records will go a long way to pick off a variety of drivers who perhaps can be stopped from their destructive ways before they in turn involve other citizens in great tragedies. The identification and information problems are matters that I think can be addressed, and I am pleased to see the courts are taking these matters quite seriously.

The other theme I want to spend some time on, and we will have a greater opportunity when we are actually dealing with the first vote tomorrow, is once again the circumstance surrounding the whole matter of support for legal aid within Ontario. I too am pleased that Claude Thompson in his opening months as president of the Canadian Bar Association is most interested in this subject.

Last year's estimates brought some \$42 million of commitment to be spent in this area. The actual expenditure was \$59 million. This year we have a 4.5 per cent increase to some \$62 million. Clearly, Ontario has been in the forefront of providing legal aid. It was the first province to do so. In 1967, the intent of the legal aid plan was to ensure that legal services were available to all Ontario citizens who needed them.

This government has been faced with the need to provide a variety of funds to a variety of worthy projects across this province. Education and health care quickly gobble up vast sums of money. As the Attorney General said in his opening remarks, we spend one per cent of our provincial budget in this ministry. Of that one per cent, close to a third is immediately used with respect to the legal aid programs. The adequate funding for this plan has not been as thorough as I would have hoped. I believe that the commitment has faded, that access to the legal aid system has been eroded by the provision of funds.

As members of the Legislature, we have all received a number of letters from lawyers in our communities who deal occasionally with legal aid matters and concern themselves with where the plan is going. Let me quote from two younger lawyers in Kitchener. One, Jamie Martin, writes:

"We believe the legal aid program in Ontario provides essential services to various individuals who cannot otherwise hire legal assistance, and we support that program. However, you will appreciate that it is essential to have appropriate compensation for the work done. It is our position that the present legal aid tariff does not compensate appropriately for work done and that substantial changes are necessary to the tariff. For this reason, we have supported the Task Force on Legal Aid and its recommendations to the Ontario government."

The second brief reference is from Patrick Flynn, another lawyer in Kitchener, who writes:

"My firm runs a fairly efficient practice. However, the general result of accepting a legal aid certificate is that the overhead costs of performing the required services inevitably outstrip the permitted account for fees."

There are a number of issues under legal aid that we have to concern ourselves with. Senior lawyers are not participating in the legal aid plan because of financial losses. Junior lawyers may do as well as senior ones, but it perhaps is the client's perception that they are not receiving the quality of representation on occasion that they would prefer.

It may be that inequitable justice is going to occur if participating lawyers feel somewhat constrained by either time or money pressures so that they are more likely to encourage unneces-

sary plea bargaining.

We have the report to the legal aid committee by that subcommittee to revise the criminal and civil legal aid tariff. It is dated October 26, 1983. The goals of the report were to examine the philosophical bases of the plan and their relationship to the tariffs and, further, to determine whether the tariffs reflect the extent and nature of services performed.

There are two major themes that have come from that report and once again have to be underlined. First, there is the comment that the availability of legal services is in danger of becoming a charity when it should be a right and the necessity to reverse that trend; second is the view that it is now time to remove the reduction of 25 per cent on the variety of accounts that are submitted. The presumption that this was a fairly paid service and there was then a deduction for community duty is no longer satisfactory.

If the tariff had been increased over the years, perhaps it would be fine to go through that pleasant fiction that we will give you \$100 but then take \$25 back, if the \$75 was a fair fee in the first place. The time has now come to reconsider that matter, knowing that it has to be done at a time when funds are short and when it is difficult to find additional millions of dollars for any project, as this government continues to have a

variety of annual deficits that have to be serviced as well.

The family law section of the Canadian Bar Association, Ontario division, has been surveyed with respect to the legal aid tariff, and its report emphasized that the family lawyer who accepts a legal aid file will not be paid a rate sufficient to cover overhead, except perhaps for the newest lawyers just called, who will apparently net \$3.13 per hour. That surely cannot be considered reasonable remuneration by any interpretation. It is not even the minimum wage. Indeed, as the member for Beaches-Woodbine (Ms. Bryden) reminded the House today, it is not even the minimum wage for domestic employees, who get \$3.50 per hour.

5 p.m.

The 1979 tariff revision stated as one of its objectives the need to encourage more senior lawyers to accept certificates, but this has not occurred. Senior lawyers reported that they maintain only some 59 per cent of the legal aid files that junior lawyers have, those in the intermediate term having about nine per cent fewer legal aid files than the junior lawyers. The current rates allowed do not even pay the overhead of the lawyer, let alone allow a reasonable return, a margin, a profit, indeed an income, for the work that has been done.

With respect to compensation, I think it is important just to underline once again the necessity for the members of this committee to stand with the Attorney General in his view that the legal aid program is valuable and useful and must be adequately funded. Whether or not that view prevails in cabinet, along with a variety of other competing requirements, is nothing on which any of the rest of us has any opportunity to comment. But if the Attorney General leaves the committee at least knowing he has strong and full support in the attitudes he is expressing, I hope that may have some influence, as the pie has to be divided among the variety of ministries.

There are a couple of other small points that I wanted to raise here because I think in the opening remarks it is appropriate to do so.

One of these arises out of the Grange commission investigation, the basis of questioning that occurred and the rather interesting opinion that was brought forward that the fact that Miss Susan Nelles refused to answer police questions without a lawyer present had some influence on the decision to charge her rather than to charge Phyllis Trayner, who, by her reaction of concern with this issue being raised,

apparently showed herself to be innocent of the prospect of such charges.

I was attracted somewhat to the comment made by William Heine, recently retired as the editor in chief of the London Free Press. He said, "And there you have it: a clear statement by a senior officer with 20 years' service testifying on oath that he had in at least one serious murder case decided which of two suspects he'd choose to arrest on the basis that one of them remained calm and asked to speak to a lawyer." Then he went on further: "There is something desperately wrong with police work when a citizen's reaction to the threat of a serious criminal charge becomes a justification for laying the charge."

I hope this was an isolated instance, because obviously the police are as well aware of the rights of individuals to remain silent and to seek legal assistance as any other segment of our society would be. I would hope, though, that we have not spent some \$3 million on this entire occurrence when it all may have hinged on that initial point. I would seek the Attorney General's commitment that it should certainly be made as clear to members of the staffs of the crown attorney system, as the Solicitor General (Mr. G. W. Taylor) would want to instruct the police within the province, that one's own legal rights should be followed and that no inference should be drawn one way or the other.

The issue of television in the courtroom is the one on which I would just end my general remarks today, except for two small points, mainly because of the encouraging editorial in the Toronto Star of October 9. It would appear that our estimates have at least fallen into some plan for the media to provide us with much more recent and interesting topics in the last several days than we have occasionally had in years gone by.

I think the editorial speaks for itself; I am not going to read it into the record other than to comment that it does appear to favour greater use of television in the courts. In the last paragraph it says: "Chief Justice Brian Dickson of the Supreme Court has suggested the whole issue merits full debate. It should be put to the test. That's the best way to find out whether it's good or bad for us. The evidence suggests the public would benefit; it deserves a fair trial."

I hope our new Chief Justice of Canada will be able to follow through on that theme. I was encouraged after the way this matter has been dealt with in the recent past that there is at least the possibility of some reconsideration. The arguments opposed and the arguments in favour

are those we discussed in estimates on several occasions. The whole idea of the disruption of the courts is one that certainly initially got my attention, but having seen the variety of presentations, I agree that this is the kind of matter that should be reconsidered.

If he is stimulated by the attitude of the Chief Justice in this matter, I hope the Attorney General will also be prepared to consider in the months to come whether the opportunities will be greater for this use in the media, for the benefits which on balance it can be expected to bring.

I have two minor matters in closing. One is a series of questions that had been submitted on May 31 to the ministry with respect to certain activities under the programming planning budgeting system. I look forward to hearing from the Attorney General as to his awareness of the questions. I hope his staff may be able to answer them in a reasonable period of time.

Finally, there is a letter just received that is of interest with respect to Bill 123, the Professional Engineers Act. The comment made by the Canadian Society for Professional Engineers is to the effect that the Attorney General has invited and received assurances of attendance from both the Association of Professional Engineers of Ontario and the CSPE, the writer of this letter, but a date has apparently yet to be set for the meeting. That group had written for an early meeting. I was asked to use my good offices to remind the Attorney General of his commitments in this regard and I do so now.

With that, I am pleased to relinquish the floor to my colleague the member for Riverdale.

Mr. Renwick: Mr. Chairman, I welcome the rather orderly way in which we plan to go through the estimates of the Ministry of the Attorney General because it will allow us to deal with a number of matters the Attorney General raised in his opening statement at the appropriate time in the particular votes to which they refer.

However, at the outset I want to recall, as we all do, the deaths of three distinguished jurists and lawyers since we last met. Not that others have not died, but these are the three I want to comment on.

Chief Justice Bora Laskin died in the spring. As a former student of his, and as a continuing admirer and student of his remarks as he made his way through the judicial system to the top post in the administration of justice in our court system, I want to make a comment about him. By fortuitous accident, a copy of the Law Society Gazette came to my desk this morning. I want to put on the record the remarks of the now Chief

Justice of Canada, R. G. Brian Dickson when he paid tribute to the late Chief Justice.

5:10 p.m.

"The University of Padua was founded in 1221. The granting to Bora Laskin of an honorary degree at a special convocation marked the first time that the university had given such a degree to a common law jurist." Chief Justice Dickson recalled being in Italy last summer at the University of Padua to receive on behalf of Chief Justice Laskin the degree of political science honoris causa in absentia, because the Chief Justice could not be present by reason of his illness.

"The citation which accompanied that degree read as follows: 'In consideration of his high level of knowledge in the study of problems relating to public and constitutional law under the Canadian judicial system and his ever-present commitment to applying the principles of freedom and justice to jurisprudential practice, a field which he had developed with exceptional originality and doctrinal integrity from a theoretical standpoint...'"

The now Chief Justice goes to say: "That, it seems to me, is a remarkably apt assessment of the man and what he stood for."

The second death is the death of Arthur Maloney, who was a very close friend and colleague of the Attorney General. Without any particular need for me to eulogize Mr. Maloney, it points to the ever-continuing problem of the social issues that we who have assumed some role in public life are continually facing. The name Arthur Maloney, while it is associated with a number of areas of activities in the field of law, I would think is in the minds of the vast majority of Canadian citizens in relation to the position he took on the question of capital punishment.

As the public debate and the public feelings unfold on the question of this issue, I think we would do well to recall that in tempering our attitude in trying to arrive at the best solutions to the problems of capital punishment. That is a very good sheet-anchor for us to use as a hallmark of the way in which we perhaps should approach this difficult debate.

The third person is Mr. Douglas Laidlaw, QC, who was simply in the heyday of his legal career as a civil practitioner, mainly in the courts in the province. He had a brilliant future before him, which would without any doubt in my judgement have led to the bench in due course, to follow in the footsteps of his father, who had sat on the Court of Appeal in Ontario.

It again raised a question which is before us in the assembly in a social way because he was killed unnecessarily on the highway, having left his car after it suffered a flat tire or some such disability. He was simply standing there when he was struck by another vehicle. If the newspaper reports were correct, it was stated that particular person was driving while his licence was under suspension. We have that question in front of us as being the sole justification put forward by the ministry for the identification picture on the driver's licences that are issued throughout the province. The main argument that has been put is the problem of the drivers under suspension.

This was said in a rather sombre mood, having reflected on the deaths of those three persons, but in a sense of gratitude, because each of them in his own way epitomized some of the finest elements in the practice of a profession to which the minister and my colleague and I belong.

I also wanted to pay tribute to the Attorney General on the occasion of his ninth anniversary in the office. The time certainly does pass by.

Mr. Breithaupt: Especially when you are enjoying yourself.

Mr. Renwick: Again, there was the coincidence of the quotation of "The Tradition of Service," your address to the convocation when you were honoured this summer with the conferring of the degree of doctor of laws. I was particularly interested in the quotation of some remarks your father had made in the Canadian Bar Review some 40 years ago and which in the life of a very complex man, who continues to fascinate me, as do many of my colleagues as to what makes them run, perhaps lends some understanding of what led you into public life. The award was certainly well deserved and coincided relatively closely with your ninth year as Attorney General of Ontario.

As we all have been, I was pondering the question of the resignation of the Premier (Mr. Davis) to find the basic motivation that may have led the Premier to decide to retire from politics. It may well have been that the time was fast approaching when the report of Mr. Justice Campbell Grant was going to have to be tabled in the assembly with respect to the Arnprior dam.

I recall that it was in 1975 the Premier assured us that at the earliest possible moment he wished to share that report—I believe those were his words—with all the members of the assembly. I certainly hope that somehow or other that sharing might take place before the Premier leaves the executive council of Ontario and, in any event, before the next election is called when he may no

longer be present in the assembly to share it with us in quite the same way.

I wrote to the Attorney General in part of my continuing file of correspondence on July 16 of this year, saying:

"Dear Mr. Attorney:

"You were kind enough to write to me on April 16. This is the end of a long correspondence about the Supreme Court of Canada decision in the dredging case and the release of the report of the Hon. Mr. Justice Campbell Grant. Would you please advise me whether or not there has been any decision in this matter by the Supreme Court of Canada which would now permit the report to be made available to me."

I do not believe I have as yet received any response, but the minister might well convey to the Premier the interest of the member for Renfrew North (Mr. Conway) and myself in sharing that report with him before he leaves the assembly of Ontario.

Hon. Mr. McMurtry: I should not interject, but I think I can predict that he, more than anyone else, would be delighted to share it with you.

Mr. Renwick: I recognize that. We have been waiting since you were appointed Attorney General of Ontario for you to give the green light to the Premier of the province that it could now be released. In any event, rather than raise it as a point of order in the House, I thought I would raise it with you today.

Hon. Mr. McMurtry: The Supreme Court of Canada has a decision that has been outstanding for close to two years. It has reserved judgement. It is very peculiar that it should take that long.

Mr. Breithaupt: We have rarely had that situation before.

Mr. Renwick: Because of the vast panorama of topics that one could deal with in the ministry, one has to be very selective—you have been selective of what you consider to be of major current importance—without putting down a large number of other areas one could talk about in the short time available. My colleague the member for Kitchener (Mr. Breithaupt), the critic for the official opposition, has commented on some of the matters you raised and has raised a number of others.

5:20 p.m.

I wanted to confine my opening remarks to one particular area, which happens to coincide with an area the minister has dealt with and which the member for Kitchener has also referred to, in order to try to get some sense of the kind of answers rather than the questions the minister's

statement raised in such an immense degree on the whole question of race relations.

I thought I would like to deal with that in my opening remarks because, while a number of those areas fall within the actual purview of his ministry, he is, of course, also the chairman of the cabinet committee on race relations, so in a very real sense he is the principal officer of the crown who deals in the broadest terms with all of these questions.

I do not want to be especially or particularly legal about it, but there are two matters that are of legal significance before I then carry on to make some more precise comments, I trust, or frame some precise questions to which I hope to get answers.

I noted in his statement on matters related to hate literature that the problems predominated rather than any indication of the solutions he may have under review and consideration. We have, of course, over the years dealt with the problems of the Criminal Code, and he, as he said, made his submission to point out very clearly some of those major concerns a year and a half ago—I guess it was in June 1983; indeed, I think it was while we were in estimates—about the shortcomings of the Criminal Code provisions.

But let me put it in a little bit broader context right now. The Human Rights Code has the provision in it in section 46, "(1) This act binds the crown and every agency of the crown." It then goes on to state, "(2) Where a provision in an act or regulation purports to require or authorize conduct that is a contravention of part I," which is, of course, the discriminatory protection sections, "this act applies and prevails unless the act or regulation specifically provides that it is to apply notwithstanding this act." Then it goes on to say, "(3) Subsection (2) does not apply to an act or regulation heretofore enacted or made until two years after this act comes into force," and that date was, as we are all aware, June 15, 1984.

In the sixth report of Canada in 1982 to the International Convention on the Elimination of All Forms of Racial Discrimination, in the submission that went to the body charged with the supervision of the performance by the member nations of its obligations under that particular covenant, was a report submitted by Ontario which stated in substance that the laws of Ontario were being reviewed with respect to the application of that section of the code to all the laws of the province, so that when the next report was made it would include the way in which the ministry had responded to that decision of the

assembly to give the government some two-year period in which to comply.

I have now found the particular remarks in that report.

"In January 1982, the government of Ontario directed that all ministries in Ontario review their statutes, regulations, policies and procedures in the light of the standards established by the new Human Rights Code.

"This review was then conducted in conjunction with a similar review of the standards of the Canadian Charter of Rights and Freedoms. By the end of June 1982, ministries had filed reports with the Attorney General on these matters, highlighting areas of difficulty and proposing solutions. It is the policy of the government of Ontario that in all but the most exceptional cases, laws and policies are to be brought into line with the charter and the code.

"It is expected that legislative measures aimed at this objective will commence this year well in advance of June 15, 1984, when the Human Rights Code achieves primacy over all Ontario legislation.

"At that time, legislation inconsistent with the code will become to the extent of the inconsistency null and void. This is subject only to expressed statutory provisions in particular statutes opting out of the code."

I ask that question in relation to the response of the ministry, but also in response to the April 1985 date when the equality rights provision under the charter will come into force.

At the appropriate time, I would appreciate a response on those matters that are of importance to the statutes of Ontario from a legislative point of view.

I had the opportunity to write to Professor Ken Norman, who was the chairman of the Canadian Bar Association conference on the report of the association's special committee on racial and religious hatred. I received a copy of that report. John D. McAlpine, QC, and Hymie Weinstein, QC, were other members of that special committee. Of course it was at the occasion of the bar association meeting that you, Alan Borovoy and Dr. Jack Kehoe, the study director of Equality Now, participated in the discussions in connection with it.

The report refers to a number of the matters covered in your opening statement and in particular to the report of our former colleague Patrick Lawlor. It is a very useful compendium of the historical documents that exist in relation to this vexed problem of racial and religious

hatred. Equality Now was almost coincidental with their study of the questions.

5:30 p.m.

I had also received recently, because I had noted it had been published, the review of anti-Semitism in Canada 1983 by the League for Human Rights of B'nai B'rith Canada, which relates to many of the same areas.

I think it is a very useful and ongoing study that is being conducted, particularly the research project being carried out on the study of Canadian attitudes towards Jews, Italians and Poles. One of the purposes of the study was to try to ascertain the extent to which Jewish people are subject to attitudinal prejudices simply because they belong to an ethnic minority in the country. It is a generalized attitude of longer residents of this country towards ethnic minorities of one kind or another.

I have, as the Attorney General has, all of these documents—Equality Now, the final report, the statements to the parliamentary committee on the participation of visible minorities in Canadian societies on October 20, 1983. I also have the report of our colleague, and various statements issued by former Minister of Justice Mark MacGuigan, with respect to hate propaganda and the proposals in the suggestions that were going to be made with respect to the matters of technical problems within the Canadian Criminal Code.

However, I wanted to deal for a short time with what my colleague had to say and to ask specifically your views on his positive proposals, the three paths, torts, libel and slander in the Human Rights Code and commission. I noted with interest in your opening remarks that you tended to look towards the third recommendation, that is the question of amending the Human Rights Code on this question.

I would ask your response, when the appropriate time comes, to each of the three proposals of Patrick Lawlor in his report. I would also ask whether you have, in precise terms, discarded any of the three? Have you made any decision with respect to any of the three? If you have made a decision with respect to at least the amendment to the Human Rights Code, what will be the nature of that amendment, bearing in mind that Professor Norman's committee refers to the amendment to the Manitoba Human Rights Act and I believe also to the Saskatchewan Human Rights Code, in trying to deal with the kinds of questions Mr. Lawlor raises in his report?

On the first question, the question of the creation of a tort, Mr. Lawlor points out and of

course the report points out that the decision of the Supreme Court of Canada, particularly the decision of Chief Justice Laskin in the Baudria case, for practical purposes said, "In the provincial field, if you cannot find your recourse against discrimination under the code, you have

not got it in the province."

Some people do not take that clear a view of the question but, certainly, I believe for practical purposes that is the result of the Baudria decision. If in the absence of specific legislation in Ontario or elsewhere, one must look in the matter of discrimination on racial or other grounds to the protection afforded by the assembly under the Human Rights Code, with all the problems of creating by statute a tort in this field, it may well be a necessary piece of the arsenal of possible routes people can follow rather than hanging our hopes on one only. I tend to think the problems are such that we should not restrict our view to a single road. I believe Mr. Lawlor's first report, with all the caveats he has expressed in it, is well worth pursuing.

Strangely enough, the Attorney General and I raised at about the same time some years ago the question of group defamation, which was partly what prompted him to ask Mr. Lawlor to do the report. He deals with that question in the report about an amendment to the law of libel and slander. I would appreciate, with as much specificity as is possible for the Attorney General to give us, knowing what his views are with

respect to that very specific question.

It is interesting that in Kitchener-Waterloo in the last few days an Ontario Supreme Court jury awarded Constable Fred Barens \$64,000 plus interest in a libel action with respect to a newsletter that was disseminated related to the former police tactical squad of the Kitchener police force, which led to many other problems.

Mr. Breithaupt: More particularly the death of a person as a result of a shooting by Constable Barens, which death was referred to as an assassination and such like, in the verbiage in the Marxist-Leninist groups.

Mr. Renwick: I do not pretend to have read it, and I am not suggesting it answered the question at all, but it may well indicate the kinds of problems with respect to group defamation and a person as a member of the group. Those are again matters to which Mr. Lawlor refers to in his report. It is interesting that the jury heard nearly four days of testimony last week in which Constable Barens claimed he was libelled by publication of a newsletter in June 1978 which attacked the former police tactical squad, refer-

ring to members as terrorists, assassins and murderers.

The defendants claim that they did not single out Barens, that the newsletter contents were fair comment and so on. I emphasize the point that they did not single out Barens. I was curious when I read it again at the end of September or in early October when this decision came out. I was interested in the fundamental question of whether, if a group is defamed, we should be amending the law of libel and slander so that if you walk into a court, you can say: "What has been said about this group is defamatory. I am a member of that group and I, therefore, should have a right of action simply on that basis."

5:40 p.m.

I have read Mr. Lawlor's report two or three times on that question. I believe his mind was directed towards the other question of a group taking the action with respect to the libel or slander. I do not pretend, in a very difficult field, to presume to know what the concerns are, but I would be most interested, particularly because of the emphasis the Attorney General gave it in his opening statement, if he could take us into his confidence a little bit more with respect to what his specific intentions are in relation to the report of Patrick Lawlor.

In the same kind of attitude, I would like him to comment about that panel in which he took part. I did speak to Alan Borovoy, who of course has the view that the hate literature provisions in the code are unwise and that we should never have gone that route at all. Perhaps that is a very traditional civil libertarian view, and I was hoping to have his comments when I was giving consideration to the main theme I wanted to pursue with the minister in these opening remarks.

Alan, being the articulate person he is, never has any notes. He would be glad to discuss it with me by telephone, but I find he is so intellectually bright that I cannot follow all his arguments. I would love to see what his position is, because he puts a kind of sheet-anchor position with respect to civil liberties and where you go on the question of limitations on freedom of expression with respect to these kinds of matters.

On that aspect of it, I happened to notice by accident that the New York Public Library has an exhibition of 500 years of censorship, which is its main project this summer. In the interests of my continuing interest in this topic, I wrote away and got a copy of the document that accompanies the exhibit. It is an absolutely fascinating document, with six or seven very able statements by a

number of recognized people on various aspects of it.

Again, as we move into these areas it is a kind of sheet-anchor to how we look at it and how we realize that we are making very fundamental decisions as to whether the traditional liberal philosophy as such is adequate to meet the very special situations we are running into in relation to pornography, violence, child pornography and all those questions.

When we are taking steps, as we must take steps, we have to be very clear about the extent and degree to which we are saying that those values and standards are being changed by what we do and not simply rely on the caveat expressed by John Stuart Mill that there are certain limitations to it and gaily go about encroaching on freedom of expression beyond the extent to which we believe it is absolutely essential that we do so.

I do not necessarily want to pursue in this forum the questions related to pornography, child violence, censorship and so on, because we will have an opportunity, simply because the Theatres Act is going to be coming before us, to deal with a very real number of those questions.

I do not know whether the minister has available Professor Norman's committee study, but certainly my copy is available if he wishes to look at it. I would like him to go step by step through the actual Canadian Bar Association recommendations concerning section 281 of the Criminal Code, because they are very specific about the very amendments he was talking about, whereas he was not particularly specific other than to say that when he was with his colleagues up in the Yukon he had discussions about this and that he was going to be making proposals to the Minister of Justice. Perhaps he will be in a position to take us into his confidence as to exactly what his particular proposals are going to be in relation to this field.

I have only one other comment, partially related to the vexed question of the tremendous

debate that I believe is going on in the country on the question of capital punishment.

In the interests of a sheet-anchor, when we are approaching these difficult questions, I approach them on the basis that as a member of this assembly I have a responsibility regardless of whether the matters are technically within the jurisdiction of the federal government. I believe I have that responsibility. As I walk the streets of Riverdale or Broadview-Greenwood, people do not distinguish between myself and my colleague the member for Broadview-Greenwood, as to what questions they should ask which person. There is a very practical consideration to it.

In the interests of a sheet-anchor, I bring to the Attorney General's attention that it was Winston Churchill while he was Home Secretary of Britain who observed with characteristic eloquence, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the unfailing tests of the civilization of any country."

That might be a suitable place for me to conclude my remarks. They have been a mixture of a homily in a number of areas, but I hope out of it the Attorney General will discern that I have asked a number of specific questions about what he proposes in the area in which he is very interested, in which my colleague the member for Kitchener is very interested and in which I am very interested, the whole question of racial discrimination.

Mr. Chairman: In view of the time, we will adjourn the meeting until after routine proceedings tomorrow morning.

Hon. Mr. McMurtry: This does not necessarily have to be on the record. I can repeat it tomorrow for the record. Before adjourning, I would like to thank the critics for their kind and generous comments in relation to my anniversary and other events.

The committee adjourned at 5:49 p.m.

CONTENTS

Thursday, October 11, 1984

Opening statements: Mr. McMurtry	J-217
Mr. Breithaupt	J-225
Mr. Renwick	J-230
Adjournment:	J-235

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L) Kolyn, A., Chairman (Lakeshore PC) McMurtry, Hon. R. R., Attorney General (Eglinton PC) Renwick, J. A. (Riverdale NDP)







No. J-11

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General

Fourth Session, 32nd Parliament

Friday, October 12, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, October 12, 1984

The committee met at 11:38 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Chairman: The meeting will come to order. As honourable members are aware, we heard the opening statement of the Attorney General yesterday afternoon. We also heard from the critics of both opposition parties. Minister, in their summations there were a few questions they had asked you. I was wondering whether you had some answers for them at this time.

On vote 1501, law officer of the crown program:

Hon. Mr. McMurtry: Yes, Mr. Chairman, we can do some of them as we get to the votes. At least this morning we do not have all the answers, as the critics had anticipated we would not, but to the best of our ability we will have them during the course of these estimates.

Again for the record, I thank the critics for their important contribution to the opening of these estimates. I also thank them again for their generous and gracious remarks in relation to my ninth anniversary of the privilege of serving in this office of Attorney General.

The member for Kitchener (Mr. Breithaupt) touched briefly on the Grange commission. Obviously my comments must be somewhat restricted as Mr. Justice Grange deliberates and writes his very important report, but for the record I would like clear up what, in my respectful view and to the best of my knowledge, is a widely held misconception in respect of the relationship between the reported silence of Miss Nelles and the laying of the criminal charges against her. I am doing this on the basis of not having read all the evidence, or even of having followed the commission closely on a day-to-day basis.

However, I do recall hearing and reading the submissions of the counsel for the Grange commission, Mr. Paul Lamek, who in his concluding argument referred to this misconception and stated that the evidence would clearly indicate that the police did not consider the silence of Miss Nelles as forming part of their reasonable and probable grounds for laying a charge, and that according to commission counsel at least—this will be ultimately for the

commissioner, of course—in his view the evidence indicated that the police had already formed the conclusion they had reasonable and probable grounds to lay the charges, and the relative silence of Miss Nelles did not obviously detract from the conclusion that had been arrived at quite independently of any interview with her.

It is unfortunate the widespread public perception has been created that because she remained silent she was charged. As I understand it, the evidence was that the decision had been made, in so far as the belief that there were reasonable and probable grounds was concerned, prior to that interview. That will ultimately be a matter for Mr. Justice Grange.

I would like to state for the record that whatever the report of Mr. Justice Grange—we certainly recognize the very significant challenges he undertook in this highly complex case—I want to make it clear that, now that the testimony and the arguments have been made at the Grange commission, the decision to hold the inquiry has in my view been totally justified.

There may not be all the answers the public would like—I have no idea and I cannot speculate on that area—but I want to make it clear to my colleagues that the importance of public accountability, of a public inquiry into all these events was, in my view at the time the commission was called, entirely necessary.

Nothing that has occurred at the commission would change my original view that, while it is always regrettable to have to hold any inquiry of this nature, there was no reasonable alternative given the circumstances and the importance of public accountability, both on behalf of the great and justifiably internationally renowned hospital and two other great institutions, the Metropolitan Toronto Police and the crown attorney's office in Metropolitan Toronto.

They are all great institutions dedicated to the service of the public on a day-to-day basis and, generally speaking, they perform their functions admirably. In all the circumstances, it is my firm belief that the health and viability of our public institutions do require a high degree of accountability and this, to me, was and is fundamental to the reasons for the holding of the Grange inquiry.

The other item that I would like to comment on briefly is the submission of the member for

Kitchener with respect to television in the courts and his understandable suggestion that the Ministry of the Attorney General keep an open mind about this matter. I would like to refer all members of the committee and, indeed, the public as a whole to the very eloquent submissions made by the member for Riverdale (Mr. Renwick) on April 10, 1984, in the Legislature with respect to the Courts of Justice Act.

I think these words are worth repeating, and repeating in part. I am now quoting the member at page 621 of Hansard for April 10, 1984: "I can understand the concern of politicians who want to be on the side of the media in an issue such as this question of access to the courts"—I am not suggesting that the member for Kitchener is one of those persons necessarily—"but I happen to be a fairly unreconstructed person who believes that as long as there are no secret trials anywhere in Ontario, that is the important issue. It is not a question of who shall select what will be reported by the press or any media one way or the other.

"The rights of the individual citizen standing before a judge or a judge and jury in a court are paramount to any question of selectivity on behalf of the media, be it radio, television or print, with respect to the way that person will be dealt with in the courts. I am quite satisfied with the present method of dealing with the question of access to the courts.

"I do not want to see any secret trial in this province, but I also want everyone to understand that the expression in the charter about freedom of expression or opinion or access to the media and so on is not an open sesame to provide the media with the opportunity of deciding what will or will not be selected for the purpose of reporting in the media. I feel very deeply about the question.

"I agree with the proposition that with the consent of everybody involved, there may well be opportunities to provide an educational format for people with respect to the way the justice system operates. But in this society, which is dominated by the institutions of the society, one of the few places where a person is entitled to stand alone, in a way that will not be influenced by what goes on outside and have the decision made in accordance with legal principles, is one that will ultimately prevail in the courts.

"It is a kind of slippery path to start on some proposition that we should be moving towards open access for selectivity purposes by whatever the media want to report about any trial situation. I do not think there can be a lawyer in the province who does not believe the requirements

of the sensitivity of his clients, whether in small claims court, in a charge in front of a jury of the most heinous offence one could conceive of, is one that can be tampered with by our society, which is devoted to an idea something like, 'The media must dominate the world.' It does not operate that way if we are going to have respect for the individual.

"I emphasize again that it is possible, either through staged presentation by television, radio or any other of the media, with the consent of all persons, to provide an educational format about how the justice system operates. The present restricted courtroom, with access to individuals who want to attend trials and listen to what goes on and the opportunity for the media to report as they see fit, is the kind of respect for the individual which in this area must surmount any consideration of a selectivity leading to exploitation or otherwise."

11:50 a.m.

He goes on to say, "As long as there are no secret trials and our open courts provide for it as they do at present, that is also the protection of the individual. It is solely around the cluster of the rights of the individual in our judicial system that I stand, even if I must disengage myself gently, as I have on other occasions, from my colleagues and from the member for Kitchener (Mr. Breithaupt). I do not believe there is some kind of polite path that will lead us to a different route."

Mr. Breithaupt: I think you are correct. That is a somewhat unreconstructed view.

Mr. Renwick: Read that passage again. This is a first for me, to have the Attorney General (Mr. McMurtry) quote me as a source.

Hon. Mr. McMurtry: I put this on the record for the purpose of these estimates because, with respect, I think this is one of the most eloquent contributions I have heard to a very difficult and complex issue. I think these comments deserve a good deal of public attention.

I do not say that I am an absolutist about the issue. I expect the debate will continue, and we all, of course, agree on the fundamental principle of public access to our court system. That is fundamental to the administration of justice in this province.

My only further response at this point would be to say that it is obviously a matter about which there has to be very careful, thorough consideration before we move in a way that could, at the very least, encroach on the rights of the individual participants in the manner so eloquently described by the member for Riverdale, quite apart from the potential in other areas to undermine the credibility of the administration of justice. Nothwithstanding the, I am sure, very laudable intent and the understandable and acceptable motivation of most of those individuals who have the responsibility for our television news reports, it is simply an issue that will be and must be debated, and I think all of us look forward to that continuing discussion.

Concerning the issue of the professional engineers and the various societies involved, we certainly intend to proceed with that meeting. I think there is a relative degree of peace and tranquillity within the ranks of the professional engineers, but we will continue to do everything we can to create an atmosphere of harmony and understanding and the amelioration of any division or confrontation, which can occur in any profession.

Mr. Breithaupt: So a date for the meeting may be expected to be set reasonably soon?

Hon. Mr. McMurtry: Yes, I hope so. I do not see any obstacle to that.

Mr. Breithaupt: I shall leave that with you, then.

Mr. Renwick: I am very pleased to hear you say that, because I received the same communication. Of course, we were in close association with the Canadian Society for Professional Engineers throughout those discussions on that bill. It is very apprehensive now that delay will set in and that there will not be the meeting and the forum that your ministry promised and agreed to at the time that, for what to you were legitimate reasons, you did not accept the amendment proposed by the Justice committee to that bill.

It was that action on your part that led to this commitment to provide a forum for it to iron out very serious problems, which, if they are allowed to fester in there, will simply be perpetuated. I think it is a serious matter myself and I do hope that in a crowded schedule you or your senior advisers could provide the immediate contact. One meeting is obviously not going to solve it, but at least it would get the process going.

Mr. Breithaupt: As my colleague Mr. Renwick says, if there was the prospect of having an opportunity for that preliminary meeting some time in the next month and sorting out some of these concerns before opinions harden as to what might be meant or what was said or whatever, it would be a healthy step.

Mr. Renwick: We should particularly have in mind that the Canadian Society for Professional

Engineers is having its seventh annual meeting early in November. I am not certain when. I thought I had the date marked in my book. In any event, it is in early November.

Mr. Breithaupt: It is November 3.

Mr. Renwick: It is November 3, is it? I think it would be extremely helpful if at that meeting they were able to say not necessarily that the meeting had been held, but that it had been scheduled.

Hon. Mr. McMurtry: We will certainly give that a priority.

During the course of the estimates we will deal with the other issues Mr. Breithaupt raised.

Turning to Mr. Renwick's comments, I would like to join with him in his expressions of sorrow over the passing of three very distinguished lawyers, the Chief Justice of Canada, Mr. Arthur Maloney and Douglas Laidlaw. I am glad he expressed the sorrow I am sure all of us in the committee feel as a result of the loss of three astonishingly talented people.

I may even regret I did not mention their names in my opening statement. I have expressed my own views on these deaths on other occasions. There can be no doubt the administration of justice in Ontario has suffered three very significant losses in the deaths of these men who, I feel privileged to say, were all very close friends and people whom I admired very much.

Their contributions to the administration of justice and the public life of Ontario are well known to everybody and there is no need to reiterate them here. Their passing certainly represents a very real loss not only to the profession of law and the administration of justice, but to the community as a whole.

Mr. Renwick, did you say there was a letter I had not responded to with respect to Mr. Justice Campbell Grant?

Mr. Renwick: You responded to all but the last one I wrote you, dated July 16, which was the one I quoted. I do not appear to have a response to it. I did think it must be near an end.

Hon. Mr. McMurtry: I am not being criticial of the Supreme Court of Canada because I do not know many of the details of the latest appeal, other than to say it is a very unusual period of time for a judgement to be delayed, a year and a half or closer to two years now.

12 noon

We considered the tabling of the report before the appeals were completed, but the unanimous advice of my senior law officers was that it would be the wrong precedent to set. Mr. Breithaupt: I agree with you on that.

Hon. Mr. McMurtry: I was very tempted to table the report until I received the very good advice of my senior law officers. Quite frankly, Mr. Justice Campbell Grant, and I think this has been said on the record, found no impropriety whatsoever in relation to the awarding of any of these contracts.

Mr. Renwick: My concern was simply that by that time perhaps the Premier (Mr. Davis) would no longer be Premier, perhaps he would no longer even be in the assembly, and we would never see the report since, I understand, it was a personal report to him.

Mr. Breithaupt: I think it must be at least seven or eight years since I asked the first question or two.

Mr. Renwick: He wanted to share it from 1975 on-

Mr. Breithaupt: And was anxious to share it.

Mr. Renwick: —at the earliest possible opportunity. No one in the media or in the press gallery at Queen's Park now has the foggiest idea of what Campbell Grant and the Arnprior dam is about.

Hon. Mr. McMurtry: The situation was really quite without precedent.

Mr. Renwick: I think that is a fair comment.

Hon. Mr. McMurtry: The Premier of the province was well aware of the fact that the charges before the courts would be before the courts for some period of time. Nobody could have anticipated it would go on this long.

I think this may have been before I assumed my present responsibilities. I cannot honestly remember, but I do not think so, although I really do not even remember that detail. As the Premier said to me at the time-and I do not think I am breaching a confidence-while he must respect the court process, given the cloud that had been created in relation to the awarding of these contracts, as leader of the government and Premier of the province, he had to be reasonably satisfied there was no improper activity within the ranks of Hydro that should be addressed. without having to wait for the conclusion of the trial process and appeal process which we knew could take some time. However, we never anticipated it would take this long.

Given the unusual circumstances, that was a very reasonable initiative, in order to protect the public interest of this province. As I said, the report did come to the conclusion that there was no impropriety, as far as Mr. Justice Campbell Grant was concerned, on the part of anyone in

relation to the awarding of these contracts. In any event, I would expect that at some point, it may see the light of day, if only for historical interest.

I feel a certain responsibility for the health of my colleagues on both sides of the Legislature. Any outstanding issue that tends to raise the blood pressure of our colleague Mr. Conway should be considered for humanitarian purposes at the very least. I hope his disappointment will not have an adverse effect on his health.

The issue of race relations has received very high priority in the ministry for some years. There have been a number of issues in the context of race relations that have been dealt with. I do not know whether it might be worth while to circulate some of this material or how best to put it on the record.

I am privileged to chair the cabinet committee on race relations. It is important to note publicly once again that the work being done by the staff working committee on race relations, chaired by my director of policy development, Mr. Douglas Ewart, who is with us this morning, has been nothing short of outstanding. A number of these initiatives predate the formation of that committee, but they are all initiatives with which Mr. Ewart and others in the ministry have been personally associated since 1976.

Mr. Chairman: Excuse me. Is the clerk sure we can make it part of the record without reading it into the record?

Clerk of the Committee: It has been done before.

Mr. Chairman: Has it been done before?

Clerk of the Committee: It has been included as an appendix at the back of the transcripts by Hansard.

Mr. Breithaupt: It is whatever the Attorney General would prefer. If there are things that are preferable to have in the remarks of the committee, certainly the time is available to do so if that is his wish.

Hon. Mr. McMurtry: As a compromise, perhaps I might just review the headings of the various initiatives without going into detail and then have an up-to-date report. The report I have in front of me is not totally up to date. It might be an appendix to the estimates. It is important for the members of the committee, the members of the Legislature and the public to know this has been a very high priority within the ministry. Some of these issues may overlap the ministries of the Attorney General and the Solicitor General because I did have responsibility for both these portfolios.

A brief summary would be as follows: First, we have intervened in individual criminal cases to ensure the justice system meets the special needs of minorities in our society.

We established a telephone advice hotline for victims of racially motivated offences.

I have already referred to our 1976 sentencing directive to crown attorneys, indicating any racially motivated assault or other criminal offence should be treated as particularly heinous or serious by reason of that motivating factor. If I may say with respect, the appropriateness of our sentencing directive was in effect strongly endorsed in the Court of Appeal by the judgement of Mr. Justice Dubin, to which I referred in my opening statement, that any racially motivated offence must be treated more seriously because it attacks the very fabric of our community.

12:10 p.m.

There have been a number of initiatives in relation to police training. We have supported and participated in a community council on race relations and policing. We have established a formal procedure for the review of hate literature. We have, of course, referred to the Lawlor study, and I will come back to that. The ministry was very much involved in the creation of the race relations division and the appointment of the race relations commissioner in so far as the Ontario Human Rights Commission is concerned.

The Ministry of the Attorney General and the Ministry of Labour were also associated with the creation of the cabinet committee on race relations, which the Attorney General chairs. The cabinet committee prepared our policy statement on race relations, copies of which I believe have been sent to every member and which hang in thousands of schoolrooms and other community locations throughout the province.

The development of a policy of racial diversity in Ontario government advertising and communications has been an important initiative, as have initiatives relating to equal employment opportunities in the civil service. The cabinet committee on race relations has made a number of suggestions, formally and informally, about minority youth unemployment.

We are monitoring the situation and the issues related to race relations in public housing. We have encouraged race relations training in the education system. Those are initiatives with which this ministry has been very closely associated. We would like to table, if we could, a totally up-to-date version of what has occurred.

Turning specifically to the Lawlor report, there are a number of important recommendations. I think it is fair to say the recommendation that has been given priority is what has been referred to as the third recommendation, namely, amendments to the Human Rights Code. I want to emphasize that we do not regard any of these recommendations as being mutually exclusive. Some will be more controversial than others, but none of them has been abandoned.

The issue of group slander, which was raised by the member for Riverdale, is an important issue. There is a reference to the action by a police officer in the Kitchener-Waterloo area. As I understand the law of libel and slander as it exists at present, one can maintain, as this police officer obviously did maintain, an action as a member of a group who has allegedly been defamed, usually if the group is small and the individual members thereof are known to the community, even though they may not be identified by name.

Mr. Breithaupt: This also had a further particularity in that the term "murderer" was used. He happened to be the constable who was involved in an event where an assailant was threatening. A firearm was pointed, and the constable fired and shot and killed that person. Not only was he part of a small and clearly identifiable group but, as I recall, he was even somewhat more singled out since the term "murderer" or "assassin" could have been relevant to him particularly. It was an interesting situation that included both those themes.

Hon. Mr. McMurtry: The group obviously has to be small. The Deputy Attorney General mentioned that to his knowledge the number of 20 seems to be the maximum where there has ever been any success. Obviously, the individual has to be clearly identified as far as the community is concerned. In the context of race relations, the existing law does not deal with the issue adequately to include defamation. I suppose we, as politicians, may feel that as a group we are defamed occasionally.

Mr. Breithaupt: Sometimes by each other.

Hon. Mr. McMurtry: That is not an issue I intend to address, I want to assure any members of the media who may be present. As the member for Kitchener states, we might be considered to aid and abet that process on occasion. In any event, we generally recognize that it comes with the territory.

It goes without saying that the issue of group defamation has been and will be a very controversial issue. I refer to the possibility of amending the libel and slander legislation in Ontario permitting actions for group defamations.

I recall a speech I gave in about 1977 at a forum in Geneva Park. The response from the public was minimal, but the response was almost thunderous from the editorial pages in newspapers across the province, and indeed outside the province, suggesting in strong terms that any initiatives in that direction would represent a serious threat to freedom of expression.

I think the atmosphere is a little different today, and I think the recommendation in Mr. Lawlor's report dealing with the same issue is by no means likely to be rejected out of hand.

I want to assure the members that we were not intimated by the negative editorial response we received, but in the absence of any discernible public support for such an initiative we did not pursue the matter at that time.

In this whole context, it is terribly important that we, as legislators, never become insensitive to or unmindful of the very eloquent statement of our former colleague when he talked about the capacity or potential of words to hurt deeply. This certainly can apply to members of minority groups, and although some people feel uncomfortable with the term "visible minorities," those people know what we are talking about and the understandable sensitivity in that area.

12:20 p.m.

It has always been my view that if government does not demonstrate an adequate level of sensitivity for the victims and potential victims of these racial attacks, we may be courting some sort of whirlwind in the nature of social discontent.

I can recall the Lord Chancellor of Britain a few years ago saying to me, when we happened to be discussing the issue of race relations, that the best way to deal with race relations, in his view, was not to talk about it. I only mention this viewpoint of a very distinguished gentleman because it was one that was clearly widely shared. It is widely shared in the western world. This statement was made before the Brixton riots in Britain, and I have not had a chance to search out his view since that occasion.

The distinguished jurist Lord Scarman, in his report, was not in any way reluctant to address the issue of race relations. I am not saying those who do not like to address the issue or talk about the issue are motivated by any improper or

necessarily insensitive feelings; it is just this traditional concern about being party to some self-fulfilling prophecy. However, I think we recognize in the pluralistic society that happens to be the fabric of our country that this is an issue we cannot sweep under the rug.

We have a staff working committee represented by the Ministry of the Attorney General and the Ministry of Labour with respect to recommendations so far as the Human Rights Code is concerned. I have not yet had the opportunity of discussing this matter in any detail with the Minister of Labour (Mr. Ramsay), so I am not in a position to advise members of the committee as to what is likely to occur, because obviously no decision has been made in that context, other than to say that this has been given a priority.

Mr. Renwick: I will just finish off my comments on this vexed area on what has been done here. The situation in the Agincourt area with respect to the Chinese community points up the concern which the Attorney General has expressed and which I continue to express as to the expectations of people with respect to what the courts can do on this matter in the light of existing legislation. I find it raises people's expectations beyond what can be achieved.

Richard Wong, who has been the chairperson of the recently formed Confederation of Chinese Canadians in Scarborough, was in some dialogue with Alderman Joel DeKort in the area with respect to locating the author of the alleged hate literature which was signed by somebody called "Margaret Hunter." There was talk about offering a reward.

In response to the question of what would be done, and this is the question of expectations about what the law can do, the alderman said: "Once we determine who did it, I want to register a writ in the Supreme Court of Ontario for libel and slander. Then I will ask the Attorney General to lay criminal charges against the group or organization." He did so and I understand he wrote to the Attorney General about this matter.

I recognize that we have to find the person responsible for the piece of literature, but obviously people think that somehow or other this is a libel and slander question and that this problem of the group comes up front and centre on that case.

Second, there is the question of then proceeding under the hate literature sections of the Criminal Code, and I guess I am concerned about what we can do to come to grips with it. We all now are clear, to a great extent because of the

Attorney General's efforts in the presentation he made and in the reports and studies that have been done, about what the problems are.

What are the specifics? I am not asking the Attorney General to answer me now, because we have a number of other areas to deal with under this vote. But I am very anxious to know his proposals. I know he has to consult with his colleagues in other provinces and so on, but what are the Attorney General's specific proposals going to be to the Minister of Justice in this area?

It is not a partisan issue. The continuity between the Honourable Mark MacGuigan and the Honourable John Crosbie is not a problem. It is all there; the studies have been made.

Hon. Mr. McMurtry: It may not all be there; I hear there has been quite a lot of shredding done. That apparently has taken place. It seems to be an unhappy phenomenon associated with change of government—at least, with the recent change of government.

Mr. Renwick: In any event, the very publishing of what the Attorney General's proposals are in very specific terms—of course, they will be discussed, and it will not be exactly his way—will again serve to focus very clearly the problems with the hate literature section of the code. Changes have to be made, or the Attorney General is not going to be able to be successful.

I see that the case out in Alberta is being challenged to have the indictment quashed in the matter. As the member sitting for the riding of Riverdale, I have an immense concern with respect to the expectations by members of the Chinese community of what the legal system can do in response to this kind of problem. Just the mere publication of the Attorney General's proposals—they do not have to be letter-perfect; they do not have to solve all the problems—will again highlight the fact that this is a most difficult area.

Again, on the question of Ontario, if the expectations of the members of the Chinese community have been raised that somehow or other there is a recourse for them under the Libel and Slander Act when the restrictions on what the courts have developed on this identifiable member of the group are a real inhibiting factor with respect to it, I again feel that somehow or other we have to move here in Ontario to the extent that it is possible for us to move on the three recommendations that Patrick Lawlor made, and we have to move promptly. That is the sum and substance of my using it as a theme of concern to me in my opening remarks.

12:30 p.m.

Hon. Mr. McMurtry: I believe this issue has to be approached on two levels. First, obviously, there is the consideration of an appropriate legislative response, as has been emphasized. But equally important to groups who feel they are under attack and who are being victimized by this material is the response by senior people in government, legislators, in the context of just demonstrating concern.

I realize that, in the words of a cynic, "Concern without anything else plus 75 cents may get you a cup of coffee." On the other hand, I do not think we should ever underestimate the importance of legislators, of elected people such as ourselves, expressing our deep concerns about this issue, even though we may not have any very specific solution.

I want to state quickly that in the case of the amendments to the hate literature provisions of the Criminal Code, we have made some very specific suggestions. We have not done any drafting; we do not think that is our role at this point.

I may not have made myself very clear, but certainly our view is that the word "wilful" should be removed, as was done in Britain. We have made specific objections to suggest that the word "wilful" be removed. That does not mean to say the criminal intent should be removed, but the burden of establishing wilfulness as stated by our distinguished Court of Appeal in the Buzzanga and Durocher case indicates that the accused wilfully intended to promote hatred against an identifiable group or proved beyond a reasonable doubt that the accused foresaw that the promotion of hatred against that group was morally certain.

As Mr. Justice Martin stated, proving what was in the mind of an individual accused is an almost impossible onus. Certainly the authorities in Britain felt this was placing the police in an impossible position and removed the word "wilful" so there could be a more objective standard.

Mr. Breithaupt: It is very difficult, indeed impossible, to get any sense of community standard if the word "wilful" is to remain.

Mr. Renwick: Does the Canadian Bar Association support that proposal?

Hon. Mr. McMurtry: Yes. We had been making submissions on this long before the bar committee made its excellent report. About the only area where we part company with them is that they do not agree with us on this identifiable

group. That is an issue about which lawyers can and will disagree.

I think the bar association agrees that the consent of the provincial Attorney General should be maintained. There was some group within the association that disagreed, but I believe they agree with that. I believe this is important. The former government very unwisely suggested that the requirement of the Attorney General's consent was an unnecessary obstacle to proceeding with these cases.

Not all but most thoughtful observers have recognized in this highly technical area of the law that there has to be some screening, because the courts could be flooded with charges. As we recognize, the mere laying of a charge is a very important step, obviously, and a devastating step for some people. The fact that the Attorney General can stay the prosecution is of small

Most provincial Attorneys General, if they were thinking of their own convenience, would just as soon not have that responsibility. Obviously it can be a hot political potato on occasion, but it is a responsibility we have to discharge, whether we particularly want to or not, to protect the public from the laying of frivolous charges.

comfort to people who have been charged.

The whole issue of what is or is not hate literature or hate propaganda is enormously complex. One could look at any number of histories that have been written by responsible historians which will offend certain segments of the community.

Writers, for example, who write about the holocaust will be accused, as they have been by this fellow Zundel, of propagating hatred against the German people. Mr. Zundel, whose activities obviously concern us very deeply, would be the first one to try to lay a charge against some distinguished author because he or she chose to write yet another book about one of the most tragic periods in the history of mankind. That is the type of complex issue with which one has to deal.

We are currently being asked to review the book The Haj, by the fellow who wrote Trinity, Leon Uris. Members of our Arab community in Canada are very offended by that book. Mr. Uris is an internationally renowned writer. I have read only part of the book, but I have to say that I find much in that book highly offensive. To say it is highly offensive is one thing; it is another thing to say it should attract a criminal prosecution.

That is the difficulty. At what point does one cross the line? It is an enormously complex issue. Hate literature is a term that can be thrown

around very loosely. Ordinary people have their own sense or gut feeling about what is promoting hatred. To try to explain that there is a difference between what in many cases is their legitimate emotional sentiment about it and what must be established in the context of the criminal law is very difficult. It is something that has troubled us a great deal.

12:40 p.m.

In any event, we have further suggested that in relation to the number of specific defences—I enumerated them, and we recognize it has to be the subject of much further discussion—those defences should either be eliminated or substantially amended.

More specifically, when it comes to the good faith argument, my law officers believe the onus of proof in demonstrating beyond a reasonable doubt that there was not good faith is on the crown. If there is a prima facie, evident case of hate literature, perhaps there should be some onus on the accused, at least on the balance of probabilities or at least to demonstrate that there was some element of good faith involved, rather than the crown having to establish beyond a reasonable doubt that there was not good faith.

Mr. Breithaupt: I can see the Attorney General being successful in having the term "wilful" removed, but I expect shifting that onus is going to be a very difficult thing to sell.

Hon. Mr. McMurtry: It is, and as I said in my opening statement, the good faith is subjective and provides no protection at all against a fanatic. It goes without saying that opinion on any religious subject is usually very broad. In the past, an extremely high percentage of the offensive material that was examined did involve statements or opinions on a religious subject, and it is enormously difficult.

In the history of most established world religions, there have been periods of frightful repression and persecution that have been sponsored, promoted and engaged in by the leaders of those churches—not today, but maybe centuries ago. The leaders today would be the first to condemn the repressive or worse activity that might have taken place two, three or four centuries ago. Again, it just points out the incredible complexity when one starts to weave admitted historical events that may have taken place centuries ago and suggests a particular church represents a danger to the community because of those events.

I agree with my friend. This is very difficult because it is so subjective. If somebody were to say, "I read this in a particular book," the book may have been written by some fanatic. The person himself may therefore become a fanatic and spout all sorts of objectionable, slanderous and hateful statements, yet honestly believe them in his own mind. If one were to ask, "On what basis did you come to the conclusion that this particular religion is something or other," the person might well reply, "I have a library of" and identify the books, which may be totally irresponsible or which may have some historical truth. They may be a mixture of historical fact and fantasy and therefore clearly within the law as they continue to propagate this hatred.

I believe some careful drafting could at least narrow that defence. At the same time I recognize that in all these cases, one has to be very careful.

An argument can be made in our pluralistic society, in this day and age, that some of this behaviour is unacceptable to the community. We can therefore make the law a little direct and rely on the good sense of our judicial officers to apply it reasonably. Some people would say that is a risk we should not take.

In any event, we are very attracted to the Human Rights Code approach because we recognize that the Criminal Code can be not only a blunt but also a very harsh instrument to try to regulate this type of activity and that there could be a remedy through cease and desist orders and the other remedies that have been discussed in the Lawlor report that do not require the full force and weight of a criminal sanction.

Quite honestly and frankly, I cannot think of a more complex issue in criminal law today. One of the reasons we have highlighted this issue in our opening statement is to invite the views of the members of the committee, the Justice critics, on what approach members might think would be helpful. We do not pretend to have the answers by any stretch of the imagination, but we do think the Criminal Code has to be amended, at least in certain ways. We have suggested generally the approaches we think should be taken.

If the present federal government states that it is prepared to look at the principles my friend has enunciated in so far as amendments are concerned, and if it is prepared to accept the need, then we can start to dialogue with respect to the actual drafting.

Mr. Breithaupt: Is this one of the themes the Attorney General expects to discuss at the time of his interministerial meeting, which will be coming up in the next short while?

Hon. Mr. McMurtry: Yes. We have not yet had any indication from the federal government

that it is prepared to treat this as a priority. We have not had any indication that it is not prepared to treat it as a priority.

Our position is simply that we have set out the principles and our concerns, and until there is some signal from the federal government that it is prepared to engage seriously in a discussion of amendments, we have found it is a rather fruitless process to gather together rather significant resources in a ministry that is already stretched very thin, quite frankly, with respect to human resources, to engage in what might simply be an academic exercise.

Mr. Chairman: Minister, I do not want to interrupt you, but we are on vote 1501. To keep to our schedule, I am sure the member for Riverdale and the member for Kitchener might have a question or two.

Mr. Renwick: The Attorney General will be pleased to know that twice in the one day I have heard the quotation about not scaring the horses, from him in the afternoon and from Rumpole of the Bailey last night on television. So he was in good company.

Mr. Breithaupt: Perhaps a new series. 12:50 p.m.

Mr. Renwick: Very briefly, it may be that I am simply going to have to continue my correspondence with the ministry on some of these matters, so I would like to be quite selective on the legal points. I will have to pick up some of them by way of correspondence.

Under this very first vote on the law officer of the crown, we have the Ontario Law Reform Commission and this countermeasures program. I have only two very brief comments to make about the countermeasures program. One is that, in response to the Attorney General's letter to all the members to try to stimulate some action at the municipal level on the countermeasures program, I did write to the mayor of the city and I think I provided some stimulation for some activity there. I have now received a copy of the report that went to the executive committee of the city of Toronto and I will send it on to the Attorney General.

I had the opportunity to speak with Mr. Erskine yesterday about the letter I had circulated to the Attorney General, to him, to the Solicitor General (Mr. G. W. Taylor) and to others as a result of a communication I got from the general insurance industry about this question of drinking and driving.

I put forward the very formal proposal, as I had a year ago, that some knocking of heads should

take place to get a public service education program of substance and content in which contributions would not be entirely the burden of the provincial government but would be from the breweries, the distilleries, the insurance industry and the government of the province on a public service basis. There are lots of models around with credits at the end indicating who has sponsored them.

It seems to me that with the progress that is being made but with the distance we still have to go—it is very real progress, and the Attorney General deserves substantial credit for it as well as for a change in public attitudes about it—that change in public attitude simply has to be

reinforced.

I cannot for the life of me understand why, with a little general knocking together of heads, a jointly sponsored public education series of advertisements could not be done. I have no objection if Dalton Camp's firm is hired for the purpose of developing it; I do not care who develops it, but it should be strictly a public service.

The distilleries and the liquor industry in the sense of hard liquor do not engage in lifestyle advertising. The breweries do engage in lifestyle advertising, but their business depends on it, and I think it is quite reasonable to enlist financial support from them on a public service education basis to support it. I hope this will receive serious consideration.

That is all I have to say on the drinking and driving question.

Hon. Mr. McMurtry: It is certainly a very important suggestion, and some contacts have been made with the brewing industry in this respect.

As members know, Commissioner Erskine, who is chairing the countermeasures group within the ministry and who has been very active throughout the province, is here with us, as well as Mr. David Bruce, who is the executive director of that office and who has travelled widely throughout the province.

I agree totally that the brewing industry has a very significant responsibility in this area and that there is an enormous deal of public concern about lifestyle advertising and the negative signals that many people believe it sends out to the community, although apparently no one has been able to prove that it actually increases the quantity of consumption.

The argument has been made by the brewing industry that it does not increase the quantity of consumption, that it just shifts the market share,

and that this is why all these millions of dollars are spent. Quite frankly, a number of people are highly sceptical about that argument, and I would think the brewing industry would be well advised to devote more resources to public service-type advertising.

Mr. Renwick: May I make one further comment just so the Attorney General will be aware of it? The city of Toronto executive committee proposed, and I believe it has since been passed by council, a plan of action to support and reinforce the current initiatives of the Ministry of the Attorney General by way of a forum on drinking and driving on November 28, 1984.

The forum will be held at the city hall, and the participants will be high school students. It will be a forum for students by students with overall direction, guidance and conduct of the forum by professional personnel.

I wanted to mention that to the Attorney General. Perhaps I could just give him that and he could send it back to me. This is a city of Toronto forum. Since it will follow immediately the conference the Attorney General is having on November 26 and November 27, to which he extended an invitation to me, maybe some liaison would make sense to provide whatever support he can to the city in developing this high school student-oriented educational program. I did not want to let that go unremarked.

Mr. Chairman: There being no further questions on vote 1501, shall vote 1501 carry?

Mr. Renwick: Except for your comment.

Mr. Chairman: Which comment are you waiting for?

Mr. Renwick: There are a lot more questions, but regardless of that—

Mr. Chairman: We are trying to keep to the schedule.

Mr. Renwick: I agree.

Mr. Chairman: We know that you will do so.

Mr. Renwick: I would not want anyone to think either the member for Kitchener or I had exhausted the subject.

Mr. Chairman: I believe that, all right, but I had indicated to Mr. Breithaupt and he said he would forgo the questions.

Mr. Breithaupt: We will try to fit them in tonight if we can.

Vote 1501 agreed to.

The committee adjourned at 12:58 p.m.

CONTENTS

Friday, October 12, 1984

Law officer of the crown program	J-239
Adjournment	J-248

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)

Kolyn, A.; Chairman (Lakeshore PC)

McMurtry, Hon. R. R., Attorney General (Eglinton PC) Renwick, J. A. (Riverdale NDP)









Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General





Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario

Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, October 17, 1984

The committee met at 10:16 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1502, administrative services program:

Mr. Chairman: We are here to deal further with the estimates of the Ministry of the Attorney General. We are on vote 1502, but I do not know whether the member for Kitchener (Mr. Breithaupt) has some questions now or whether the Attorney General (Mr. McMurtry) may have some further answers to the critics' replies.

Mr. Breithaupt: Mr. Chairman, the Attorney General may wish to make some further comments as we go through various votes on issues that were raised in the opening comments; for example, my comments on legal aid. Before he does that, there is one other theme I would like to spend a few moments on.

Hon. Mr. McMurtry: Mr. Chairman, I had pretty much addressed these issues. We can come back to some of them. There are some I could develop further, but I would be quite content if we were to proceed.

Mr. Chairman: Fine. I think you can proceed.

Mr. Breithaupt: There is one issue I do want to spend some time on, and that is the matter of the Crown Trust preferred shareholders.

The Attorney General will know that hundreds of holders of Crown Trust preferred shares risk receiving absolutely no return on what was a secure investment. They are the forgotten victims of this fiasco. They have lost some \$20 million and they have only one hope left.

The Attorney General will know that for the past 18 months his colleague the Minister of Consumer and Commercial Relations (Mr. Elgie) has led these people to believe there was some hope of a negotiated "business solution" to this difficulty. The group held back its court case for that reason, but in reality it appears the Minister of Consumer and Commercial Relations is powerless to make any deal to help the shareholders.

The only chance left for these people is through the courts. They have been stripped of

their savings because the government, in my view and in the view of many others, has failed in its duty to regulate the trust companies and because the government forgot to consider their legitimate interests when it seized Crown Trust. Now they are seeking the assistance of the Attorney General and asking him to provide the necessary funds to further legal action they have been forced to take as their last chance.

I understand the Premier (Mr. Davis) has passed on their plea in this matter to the Attorney General, and I think we have to hear whether the Attorney General is prepared to give these Crown Trust preferred shareholders some assistance.

Dozens of letters have been received, and I can show the Attorney General copies of them. These and many others have come from the Crown Trust preferred shareholders. Many of them admit to having been strong Conservative supporters over the years, but they are disturbed by the situation in which they very innocently find themselves. The letters come from Ottawa, Hamilton, Muskoka, St. Catharines, Windsor and Toronto; there are also letters from other provinces.

Not one of these people could be said to be a greedy investment speculator. They cannot afford to mount a lengthy court fight in this matter, certainly not against the unlimited resources of government; and the Attorney General will be aware just how long and costly a battle this may be if they are to receive any return for the investment they made, which they have virtually lost.

They have been stripped of their property rights, and it would appear that any basic rights under the charter have also been denied them. Unless there is some small measure of assistance in this matter, they are going to be entirely deprived of any hope for justice.

I ask the Attorney General to accept what I believe is his obligation to these preferred shareholders and to consider assisting them with respect to funds for their legal action, because the problems in which they find themselves are a direct result of the actions this government has taken.

I hope the Attorney General will consider these points and will respond, after some reflection, as to whether he is prepared to consider assisting the Crown Trust preferred shareholders in the legal action that they may well have to undertake to recover any of the \$20 million which they have apparently lost.

Hon. Mr. McMurtry: First of all, Mr. Chairman, I should say I apologize for being a little late this morning.

The issue that Mr. Breithaupt raises is a very difficult one. I can understand fully the feelings of these individuals, who certainly were not greedy speculators. Many friends of mine and of my family are among these preferred shareholders; so we are all very familiar with the anguish that has been felt.

First of all, I have to make it abundantly clear that it is not the decision of the Attorney General whether these people should be funded. There are some very complex issues related to that principle which affect the government as a whole. Any decision in that direction would have to be made by cabinet as a whole because the implications of such a decision are very farreaching, far beyond the actual money that is involved so far as the costs of legal representation are concerned. It is an issue that will be discussed in cabinet.

I also want to make another, even more fundamental, observation through this committee to the public. Having had some involvement—obviously some direct involvement—with this whole unhappy affair relating to the trust companies, I am satisfied in my own mind that if the government had not taken the action it did the end result would have been far worse for the preferred shareholders.

I am absolutely convinced, given the course of conduct that had been undertaken by the management of Crown Trust, that those shares would have become absolutely worthless. It is my personal belief that the best possibility of retaining some value for those shareholders is through the course of action that has been taken by the government in relation to the takeover of the assets of these companies.

If I were a preferred shareholder myself I could understand that I might be tempted to blame the government for this situation because that may be an obvious target, but to me that represents a fundamental misunderstanding of what occurred. The government's actions were taken with the interests of all people involved with these companies, including the preferred shareholders, at heart. What was the best course of action to preserve the assets of these companies, and of course the depositors, was a fundamental consideration in that regard.

While it may be convenient to take a run at the government in a situation like this, the government is not the author of their misfortune. If they are looking for relief from the individuals who are responsible for their predicament, they know who those individuals are; they are clearly the management of Crown Trust and particularly the majority shareholder.

I have to recognize that the drama is continuing to unfold. One has to be reminded that the criminal investigation, which I am told is the most complicated criminal investigation ever to have taken place in this country, has been under way for many months and is likely to take many more months before it is finally concluded, as the investigation extends not only throughout Canada but also to many other nations of the world.

I believe the course of action we have taken represents the best possibility of salvaging something for the preferred shareholders.

In so far as paying for legal representation, as I mentioned before, this is an issue that will have to be dealt with by cabinet as a whole. Obviously the ministry most directly involved in this matter is the Ministry of Consumer and Commercial Relations, and its views on this matter are clearly of great importance. We are not dismissing this out of hand, but as I have already said, the implications are very broad and I hope we will be responding in the very near future.

Mr. Breithaupt: I appreciate the comments of the Attorney General. I have to say that whether or not the action taken or the supervision at the time was appropriate, at least I agree with his view that had the government not acted then the preferred shareholders would have been in a much more grievous position than that in which they find themselves at the present time.

I recognize that the Minister of Consumer and Commercial Relations has the primary role in this matter to make certain representations. What I will do is ensure that the Attorney General's comments are made available to Mr. Wallis King and the others involved as preferred shareholders. I have no doubt that this matter will be raised again when the estimates of the Ministry of Consumer and Commercial Relations are dealt with following the completion of these estimates.

I thank the Attorney General for his observations on the subject.

Mr. Chairman: Mr. MacQuarrie, I believe you have a comment.

Mr. MacQuarrie: Mr. Chairman, my recollection of the information provided to this committee at the time we were dealing with the white paper on the loan and trust corporations

was that there were a number of assets retained, so-called soft assets that were not taken over by Central Trust—

Mr. Breithaupt: There was the Daon investment loan—I think it was a \$50-million mortgage—and several others.

Mr. MacQuarrie: Yes, there was a big mortgage on a Daon building in Vancouver and other assets. I just wonder about the current status of those so-called soft assets, which were supposed to have some ultimate realizable value that would stand to the credit of the shareholders. Where does that matter stand? I was wondering, Mr. Breithaupt, whether you are up to date on that.

10:30 a.m.

Mr. Breithaupt: We have followed through in our research and in the involvement with Mr. King. I do not know the exact details, but we will ask the Minister of Consumer and Commercial Relations to be prepared to bring us up to date on the value of those assets.

I believe those assets have shown some value as things have developed over the past year or two, so there may indeed be some benefit which is eventually going to accrue to the preferred shareholders. Of course, I would not presume to know just how much and when. I think that will ensure the Minister of Consumer and Commercial Relations is encouraged to bring us up to date on the maturing of the list we got at the time of the white paper study.

Mr. MacQuarrie: I was just wondering if this was the business solution to which you referred earlier.

Mr. Breithaupt: I think the business solution was more particularly an involvement under the Canada Deposit Insurance Corp. relationship, with the opportunity to have some protection guaranteed that other trust companies obviously would not be that keen on encouraging, because they are the ones who have to put the money into the pot. We will just have to see how that develops in the next set of estimates.

Mr. Chairman: Are there any further comments on this subject?

Mr. Breithaupt: Not on this subject. The other item and really the main item in this vote is the one dealing with legal aid. If there are no other comments on the Crown Trust matter, perhaps we could turn our attention to the legal aid matter.

Mr. Renwick: Yes. My colleague the member for Beaches-Woodbine (Ms. Bryden) also has a comment that she wants to make with

reference to the legal aid matter. It is probably one of the topical issues.

Mr. Breithaupt: I made my remarks during my opening comments and I really have nothing further to add, other than to hear from the Attorney General. If there are details that may be addressed further and if our colleague Ms. Bryden wishes to begin her comments, that is fine. I have had an opportunity, so we will let someone else have a chance.

Ms. Bryden: I appreciate that, Mr. Breithaupt.

I have a constituent who does a great deal of legal aid work in the family law field. She feels there are a great many women in an income category who would not be able to obtain justice without legal aid.

She has written me a letter setting forth her problem that I would like to read into the record. It indicates that for people in this kind of law, the legal aid fees are not even meeting the overhead costs. She does not question whether that may not be true for other kinds of legal practice.

I would like to read her letter to give you the picture. It is not long. It is from Janet C. Oldreive, who practises at 372 Bay Street, Suite 1600.

"Dear Ms. Bryden:

"As I am sure you are aware, the question of changes to the Ontario legal aid plan has been much discussed in recent months. A task force of the Canadian Bar Association — Ontario has submitted over 5,200 coupons demonstrating support of the legal profession for an increase in fees payable under the plan. The report of the task force was presented to Mr. McMurtry and other cabinet ministers and has prompted submissions by Mr. McMurtry to the Management Board for changes to the legislation. To date there has been no response."

This letter is dated August 22, 1984.

"My concerns, as a practising lawyer, are several:

"1. That the level of legal aid funding and fees allowable are too low to ensure that proper competent legal services are available to deserving members of the public.

"2. That many experienced lawyers are choosing not to accept legally aided cases because of extremely low fees (below my own overhead costs per hour!) and that many clients are, therefore, not able to obtain the level of legal expertise appropriate to their cases.

"3. That because of delays in administrative procedures involved in securing authorizations to proceed to 'next stage' in many matters, clients'

matters cannot be provided with as expeditiously as they should be.

"4. That because of the unmeasured time required to submit an account to the plan, it may be in a lawyer's own best interest to simply provide free legal services to certain clients rather than to ask the client to obtain legal aid. For instance, regarding a family law matter which may stretch over several months, the fees billed to the plan might total \$3,000. This represents approximately 60 hours of work at the legal aid tariff rate.

"From that total of \$3,000, the sum of \$750 is deducted by way of the lawyer's 'contribution' to the plan, leaving a net billable fee of \$2,250. Many lawyers bill at the rate of \$75 to \$100 per hour, producing a net billable fee of \$4,500 to \$6,000 for the same work and then there is the hidden cost of preparing the legal aid account. For that size of file there may be a further seven or eight hours' time for a lawyer in account preparation; at \$75 to \$100 per hour that is another \$525 to \$800 'contributed.'

"5. That those of us who continue to accept legal aid cases may be subsidizing the plan's cost to ourselves by increasing our charges to private clients. And these are the very people who are often hit hardest already by the inequalities of the taxation system, etc. The majority of my private clients are average-, middle- and low-income people. They cannot afford, nor should they be required, to further subsidize the Ontario legal aid plan which they are already subsidizing and for the benefits of which they do not qualify.

"I am hopeful that some constructive changes may be effected to the Ontario legal aid plan and would appreciate any comments or suggestions which you might make in this regard." End of letter.

I would just like to point out, as she points out, that 5,200 coupons were received in response to the Canadian Bar Association task force report. I am sure she does not speak alone; I am sure many other legal aid lawyers feel the same way she does. Certainly she feels very strongly that the public is not getting the kind of legal service they expect because of this situation.

I would very much like you to comment as to whether we cannot rectify the situation in some way. Particularly we should look at the different kinds of law that are practised and the different kinds of requirements on the lawyers who participate. She indicated to me she may have to discontinue taking legal aid cases if it continues to exceed her overhead.

Hon. Mr. McMurtry: I am certainly very sympathetic to her concerns and have not been reluctant to express these concerns publicly on many occasions. I have been very impressed with the response of the profession to this problem. The 5,200 cards you refer to certainly do demonstrate to the world and, one would hope, to the government of Ontario that the legal aid plan has very strong support within the profession.

It is also public knowledge that I have approached my colleagues for a significant increase in the legal aid tariff. The decision simply has not yet been made. There are obviously a number of competing needs. I certainly believe the legal aid system is fundamental to the quality of the administration of justice in this province. I am deeply concerned that if there is not a tariff increase we may see a fairly significant exodus of those lawyers participating in the plan.

10:40 a.m.

At the same time, it should be noted for the record that the government's continuing commitment to the plan is demonstrated, at least in part, by the increase in the expenditures in relation to the plan. I have been given some figures which indicate that, for example, between the fiscal year 1982-83 and the fiscal year 1983-84, the last fiscal year, the certificate fees and disbursements paid to legal aid solicitors in the criminal increased by 27.7 per cent, in civil increased by 19 per cent and legal advice by 38.9 per cent. The total increase in expenditures between the last fiscal year and the previous year was 24 per cent.

I think that indicates the continuing commitment of the government. Given a period of government-wide restraint, it is clear my colleagues are looking at these very significant increases from one year to the other in the context of increasing the tariff across the board. We are continuing to make the very important point that the cost of practising law has increased very dramatically for most lawyers, during the past four or five years in particular.

While we respect the importance of the five per cent restraint program, we think we can demonstrate a significant cost pass-through. The significant increase we are asking for in so far as the legal aid tariff is concerned would represent, for the most part, the cost pass-through rather than the actual take-home income, as it were.

I appreciate your comments and all I can say is that we will continue to fight the good fight, because the plan is of such importance.

Mr. Breithaupt: While you are fighting the good fight, I am wondering from the earlier

comments that were made whether you are now undertaking a study of increased office costs to a single practitioner or two or three together or a firm of five or six, or whatever the breakdown could conveniently become. I think it is important for you to know what the increased cost structure is so you have a basis on which to approach your colleagues and say this or that is a certain fair way of dealing with the problem.

From the comments I made in my opening remarks with respect to quotations from a couple of lawyers in Kitchener, and only as examples of the kind of correspondence we receive, it would appear the increase in office costs has been such that the net result of accepting a legal aid certificate is very much a public service and not a source of income.

There are two other themes I think should be addressed. One is the matter of the availability of services, the principle upon which the whole program is based, and the necessity to maintain that. The other is the matter of this tariff reduction of 25 per cent. That of itself is also one of the principles to be considered as we look at the future of the legal aid program. Access is one theme, tariff reduction another and a knowledge of what the actual cost increases are is surely the third point that will form a basis upon which you are able to decide the strength of your position for increases in the legal aid vote, which can then be considered by your colleagues in cabinet and also by the Treasurer (Mr. Grossman).

Will you then be having some studies into the law office cost theme; and what are your plans as the tariff continues to be a particular issue, not only to the 5,200 immediate responses that have been received but to the thoughtful solicitor who writes the lengthy letter to his or her member of provincial parliament in the example that Ms. Bryden has brought before us?

Hon. Mr. McMurtry: That study has been done and is part of our submission.

Mr. Chairman: Mr. Renwick, you had a question, I believe?

Mr. Renwick: I have two or three comments. I do not want to interrupt this particularly.

Ms. Bryden: I just had one further question.

Mr. Chairman: Excuse me, Ms. Bryden would like to have a follow-up on this.

Ms. Bryden: I appreciate the Attorney General's comments. He has asked for an increase in the tariff and in the arrangements. I would like to urge him to look at the question of tailoring the allowances to small firms versus big firms. I think a single-person practice does have probably

more overhead and fewer cases to spread it over than a large firm which can perhaps absorb a certain amount of charitable work along with its other cases. There may be a need for a special tailoring of the schedule to small firms.

The other point made is that costs have gone up considerably, and I can appreciate that, due both to inflation and to pass-through costs increasing, and possibly to economic conditions which are causing more crime. In the family law field, there is a growing increase in legal aid work because more women are being made aware of their rights under family law and because the Family Law Reform Act left a great deal to be decided by litigation.

Perhaps with the minister's proposals to extend the coverage of assets that will be divided between the spouses there may be less litigation required, but at the moment anything beyond the so-called family assets requires litigation to obtain a share. That is another reason I think the legal aid requests under family law are increasing. That is another area where perhaps the minister's new proposals in the asset situation will change the picture. Until we hear from him exactly what the legislation is going to be we will need more assistance, particularly for women but for spouses in general, under the Family Law Reform Act as awareness increases.

As you know, the government is now doing an educational campaign on battered wives which may bring more wives into the courts as well.

Hon. Mr. McMurtry: The suggestion is a very interesting one. I do not know just how one would work it out.

I agree that a large law firm can absorb the overhead costs related to legal aid much easier than, as the member has properly pointed out, a small firm with three, four or five lawyers or even fewer. Certainly I have always made a point whenever the opportunity arose to suggest to the large legal firms that they had a particular responsibility to encourage lawyers in the litigation area to participate in the legal aid plan. Quite frankly, they can absorb the overhead costs across the board to a greater extent. I am not satisfied that the large firms recognize their responsibility in this regard, but I certainly agree it is one that should be recognized.

10:50 a.m.

How one would tailor the funding in such as way as to give the additional assistance to the smaller law firms who make a larger financial sacrifice than the larger firms, I just do not know how you would do it from an administrative standpoint, but it is an interesting proposal.

As a matter of fact, I will be meeting later today with the treasurer of the law society, Mrs. Legge, and the chairman of the legal aid committee. I would be happy to put that on the agenda for discussion.

Mr. Chairman: Mr. Breithaupt, do you have another question?

Mr. Breithaupt: Another theme on the expenditure side for legal aid is raised on page 24 of the 1983 annual report of the legal aid plan, where we read the comments of the special subcommittee on undefended divorce procedure.

The Attorney General will recall that some three years ago there was a meeting with Mr. James B. Chadwick, QC, who was the chairman of this special subcommittee. Comments were made at that time with respect to changes in the rules of practice and the prospect of a clearer and easier dealing with undefended divorce actions where they were truly undefended and there were no external or other interests that might prevail.

The reason this is important is that last year there were 5,671 undefended divorce actions financed by the legal aid plan. That was at a cost of \$2.5 million. Even out of this budget, with the increases that have occurred, \$2.5 million is a substantial amount of money. The prospects of not having to use funds through the legal aid plan to deal with what are truly undefended divorces, which can be handled much more simply and at less expense, is another theme I think the Attorney General should make comment upon.

These recommendations in the report the subcommittee, made after certain study of a variety of divorce procedures, went back to convocation. It was approved by the legal aid committee and finally dealt with by convocation. I think it is worth while to read the one paragraph that deals with the recommendations in this report. Those recommendations were subject to one very important caveat, which is as follows:

"Unless and until there are changes in divorce and family law legislation, major consequences will continue to flow from the granting of a divorce decree. Frequently, parties involved in divorce actions focus their attention on divorce without giving adequate thought to major rights which a divorce decree will extinguish unless they are preserved by steps taken before divorce.

"For this reason and because the English experience suggests that streamlined procedures develop into divorce by consent, it is essential that no simplified procedures be introduced without adequate safeguards to ensure that the parties involved are fully aware of their rights."

Obviously, that is a sentiment with which we all would agree because of the changing society in which we are living and the view with respect to the sharing of potential assets, even with respect to possible claims against pensions by one spouse to another. The Attorney General a year ago, in March 1983, acknowledged those comments and expressed the view, other than his congratulations, that the initiative was an important demonstration of the plan's commitment to increased efficiency.

Clearly these kinds of themes are going to have to be addressed under family law reform. Perhaps the Attorney General could comment to us on how he sees that kind of idea developing in some of the themes which no doubt will be before the House as that legislation is changed.

We are talking about \$2.5 million. Clearly there will still be a cost in dealing with any procedures, no matter how streamlined they may be. However, if we are able in some way even perhaps to cut that \$2.5 million in half, we would be providing additional funds which could be used to greater advantage.

Hon. Mr. McMurtry: As you point out, Mr. Breithaupt, this issue has been around for some time. We agree that the rules should provide for the granting of an undefended divorce without the necessity of counsel appearing in court unless there is some compelling reason to do so, for example, in relation to children.

As I recall the history of this, the difficulty is the issue of the federal Divorce Act. We have been suggesting to the federal government for some time that either it amend the federal act in the context of the reference in that act to a hearing or, in the alternative, direct a reference to the Supreme Court of Canada to clarify that issue. One of the things we are concerned about is providing for a rule structure that would permit the granting of divorce without people appearing in court as far as an undefended divorce is concerned. If somebody were to challenge this process down the road on a constitutional basis, the legitimacy of thousands of divorces could be put in question.

I have had recent correspondence about this very issue with the new Minister of Justice. I met with Mr. Crosbie last night, as a matter of fact. This was one of a number of issues we indicated we wanted to discuss with him in our formal meeting of attorneys general in November. Perhaps the Deputy Attorney General who has followed this debate over the years might like to add something. Is there anything you would like to add to what I have said, Mr. Campbell?

Mr. Breithaupt: Perhaps Mr. Campbell could also expand on the theme of whether there is some expectation that a procedure as such can be considered to be a hearing, whether it will be a matter of expanding that definition or whether the view is that the statute would have to be changed since the themes of hearing and procedure may simply not be all-inclusive.

Hon. Mr. McMurtry: Mr. Campbell can expand on this, but legal opinion is divided. Our fundamental concern is not to establish a process about which there may be a significant legal cloud. We think it would be most unfair to the public to create a process with any possibility that the process could be challenged and that the legitimacy and the legality of literally thousands of divorces could be put in question.

This is why we feel we have to go through the route of an amendment to the federal Divorce Act, which has always been our preferred route. I suppose the implications for the federal government are fairly significant because once the act is opened, the feds are going to have to deal with all the outstanding issues. The constitutional reference may be a more expeditious manner, but we have to have the issue resolved. We have been asking them to do so for some time.

11 a.m.

Mr. Campbell: There is a very strong legal opinion which convinces us that the changes can be made without amending the Divorce Act and the word "hearing" can be read in such a way as to encompass the changes we propose. The trouble is that a legal opinion is only a prediction as to what a court will do. If there is any significant chance the opinion we have is wrong, then we have to remove that degree of uncertainty.

To change the law in such a way that there might be court challenges going up to the Supreme Court of Canada level and people might find out many years later they are not married or not divorced could be so wrong that we have to remove any possible chance of that happening. The only way we can be absolutely sure is by an amendment to the Divorce Act or by a reference.

Mr. Breithaupt: Considering that changes to our own Family Law Reform Act are now coming to the fore, although I presume we would not be likely to see them or be dealing with them in the remainder of this session, it would be very fortunate if the Attorney General were able to persuade his federal colleagues to deal with this matter in Parliament so that in another session, if the Family Law Reform Act is before the House, we can tie up that particular theme along with the

other points that have arisen requiring these changes during the last half dozen years or so.

Hon. Mr. McMurtry: I would be delighted to have these issues resolved, possibly even before the end of this year. That may be unrealistic, but at least to have them clearly on the rails towards resolution is the best we can expect for them.

Mr. Renwick: Mr. Chairman, I have three or four matters I would like to deal with briefly on legal aid.

Concerning the question of the tariff and the matters that are there, in view of all the changes that have been sought, both last year and this year in the estimates on it, I do not really see there is much more to be said about it. The Attorney General said a year ago that the average remuneration is about \$47 per hour; with the 25 per cent reduction, it is approximately \$35 per hour.

The law society in its column in Ontario Lawyers Weekly recently said, "Had the plan's fees been adjusted over the years to allow for the effects of inflation, the net hourly fee would now be \$65.73 instead of the \$34.50 being currently paid."

We have all received letters of one kind or another. The crescendo appeared to have been a year ago when the task force was released and the various statements were made on it by the president of the Ontario section of the Canadian Bar Association and many others. Since January 1 of this year everyone has been more or less waiting for this process to take place.

I cannot enhance the time we have available a great deal by simply asking you to repeat the same things that have been said before on the matter. I stand as a person who does think the philosophical justification for the 25 per cent statutory deduction no longer is applicable and should be removed, if not all at once, then over a specific period of time.

The one point in relation to this that has come up is the intimation, which I have never taken quite as seriously as some of those who have made it in a polemical sense, that there is going to be some boycotting of the legal aid plan and that the members of the legal profession will somehow or other not participate.

The Attorney General stated a year ago—as a matter of fact, just about exactly a year ago now—that 40 per cent of the lawyers in the province and 68 per cent of those with four or more years of practice continue to participate in the plan. My only question on this aspect of it concerns that. Is there any indication that there is any significant change up or down in the

participation rate of lawyers, not only in the global sense in the whole province, but also in any particular centres across the province where lawyers of necessity participate in that plan.

Hon. Mr. McMurtry: The studies that have been done would indicate that, fortunately, this has not happened. I cannot tell you specifically within the last six months, but on comparisons during the fiscal years we are encouraged by the fact that the lawyers, notwithstanding their understandable discontent over the fees, are remaining in the plan. Things have heated up a lot in the last six months so that could be changing; however, up until the last few months it has not happened.

As to the issue of the 25 per cent, I have to say I agree with you philosophically, Mr. Renwick. I am not so sure this serves a very useful purpose any more in the overall scheme of things. I think the intent was laudable, but I regret that the lawyers who are participating in the plan and the legal profession in general are probably not getting the credit they deserve from the public in respect to the automatic 25 per cent reduction.

Convocation, the Law Society of Upper Canada, is looking at this issue. There still is no consensus in convocation as to whether they think the 25 per cent should be eliminated. There are many people who feel the original intention is still valid, so it is still under study.

I think that is one issue that will have to be addressed quickly, because one of the great problems that I know is troubling some of my colleagues is the whole concept of what might be perceived by the public as a significant increase for the lawyers when we have this five per cent restraint program. How do you adequately explain to the public that any increase above that would be related simply to cost pass-through as opposed to a real increase as far as take-home income is concerned?

These matters are usually or often reported to the public in fairly simplistic terms as far as increases are concerned. It is a difficult issue for the government.

Mr. Renwick: Perhaps I could move to the second of the four matters that are of concern to me. During the concurrence debates in the assembly last December, I raised with the minister the question of the processing of legal aid accounts related to the significant backlog that always appears to bedevil the plan in the payment of the account and leads to a certain amount of exasperation.

Hon. Mr. McMurtry: That is one area where I can say we have made some remarkable progress.

11:10 a.m.

Mr. Renwick: If I may, let me put to you what my concern is before you tell me I need no longer be concerned. I raised these questions last December. I have a copy of a long letter of resignation written to the legal accounts officer of the Ontario legal aid plan by one of the accounts officers who resigned. She documented in a very detailed and specific way, by registered mail on April 6, her concerns about the whole integrity of the processing system—and not only the integrity of the processing system but the fact that the process did not appear to be dealing very well with the backlog.

I do not know whether this is the proper occasion on which to discuss it, but I would like to have whatever the answer was that was given to the various concerns that were raised. Was the letter taken as a serious matter by the legal aid plan, as it obviously should have been?

Hon. Mr. McMurtry: Is this a letter to me?
Mr. Renwick: No, it was a letter to the legal accounts officer and it was copied to Andrew Lawson, Mr. Noble and to the treasurer of the law society. I do not know whether the Attorney General is aware of that letter. If not, I do not see any particular reason why I cannot give it to him. Perhaps at some point he could respond to it.

Hon. Mr. McMurtry: We do not at the moment recall receiving a copy of that.

Mr. Renwick: You would not have not received it.

Hon. Mr. McMurtry: No-

Mr. Renwick: I would like to deal with that aspect of it with him by mail, if I may. It certainly is a matter which raises serious concerns. It is a very thoughtful letter and a very detailed response.

The third area I would like to raise with the Attorney General is appropriate because so much of Judge Abella's report dealt with it. Again, a year ago we talked very briefly about her report and you indicated that it was going to be reviewed thoroughly. You were not in a position a year ago to be specific in any sense about it. That is the 1983 report of Judge Rosalie S. Abella, Access to Legal Services by the Disabled.

I attended a week ago Saturday a day-long conference at the council chambers of the city hall related to the Charter of Rights and Freedom and the rights of disabled persons. It was sponsored by the Advocacy Resource Centre for the Handicapped, which is one of the major protagonist organizations for the disabled.

Indeed, one of the members of your staff in his personal capacity, Mr. Lepofsky, was a coparticipant with Mr. David Baker in starting off that conference.

The judge said a year ago that it was a very valid point that section 15 of the charter will come into effect on April 1 and that section, the equality provision, will be used by handicapped people to demand their constitutionally guaranteed rights and that speedy implementation of the pertinent recommendations in the report would be evidence of good faith compliance by the government with the need to move to that area.

His response to those comments was that this is obviously a valid point. I wonder if he is in a position to respond about progress in relation to her numerous recommendations.

Hon. Mr. McMurtry: What I would like to do is, rather than just rely on my memory at the moment, during the course of the estimates have a detailed response as to where we stand with respect to implementation.

There is no question that some of the major recommendations have significant cost implications. Quite frankly, we have not made as much progress on those recommendations as we would like. There are a large number of recommendations in this very important report and we will undertake to give you as comprehensive a response as we can during the course of the estimates.

Mr. Renwick: I would appreciate that very much. The fourth area on legal aid, which you would be surprised if I did not mention, is our mutual continuing interest in the community legal clinic system. There are two or three matters here.

I noticed in an interview you had with respect to legal aid with the chairperson of the Ontario Association of Legal Aid Clinics, Mr. Jack Fleming, you spoke about a comment I had made at the Nelson Clark symposium, where the deputy was present. Despite what Professor Mary Jane Mossman had said in addressing the symposium, that the community legal clinic system was now thoroughly entrenched in the province, I ventured the view that your personal presence in the government was the only guarantee we had of any particular support for that plan. You indicated in your interview with Mr. Fleming that was not so; you felt the community clinic program was here to stay.

Therefore, I was very concerned to find that our mutual colleague, Mr. Outerbridge, challenged the role of the community clinics in court recently. I believe the matter has been stood down. It was to come up in July. It was a matter in the Divisional Court in which the respondents are the board of commissioners of the Residential Tenancy Commission and a number of other people and tenants.

It relates to one of the community legal clinics, West End Legal Services in Ottawa. It is a challenge to the clinic acting on behalf of the tenants. It would appear to go to the root of the community legal clinic in its representative sense for a number of individual people. The nature of the order asked was that the appearances filed by West End Legal Services be struck out and the cost of all proceedings to date be made payable to them by West End Legal Services on a solicitor and client basis forthwith after taxation thereof.

The issues and related law are stated to be: "It is a contempt of the court for a person other than a solicitor to defend any person in any action or proceeding, and it is an offence for any such person to act as a barrister or solicitor."

"2. Part X of the legal aid regulations does not and cannot create an exemption or exception to the provision of the Solicitors Act and the Law Society Act; and, moreover, part X of the Legal Aid Act regulation is invalid as not being within the regulation-making power of the Law Society pursuant to section 26 of the Legal Aid Act; and

"3. An appearance filed by a solicitor without authority may be struck out with the costs of the appearance and all such proceedings payable by the solicitor on a solicitor and client basis."

11:20 a.m.

My concern is twofold. Are you aware of this particular challenge to the underpinnings of the community legal aid plan, as I view it to be?

Second, the very tight rein which is being enforced on the community legal clinics through the clinic funding committee is compartmentalizing law in the way in which the reports of Judge Abella spoke to us. Therefore the general question remains as to whether it is possible that funding arrangements for the community legal clinics will allow them to expand and to deal with the poverty problems and community concerns as originally envisaged, particularly in the Grange report.

Hon. Mr. McMurtry: I am aware of the challenge of Mr. Outerbridge. We are not overly concerned about it. This leaves the issue of the Band-Aid of legal aid clinics and the role of the funding committee. Perhaps I could ask Mr. Carter to deal with some of the mechanics of the actual funding process.

I think I expressed my concerns in that interview in relation to the newsletter. It is very

important that the community legal aid clinics do not appear to be engaging in partisan politics. This is the one area where I have a continuing concern.

Where precisely do you draw the line in respect to advocacy of the concerns of the disadvantaged? Obviously the disadvantaged have to be represented. That is crucial to our community. It was undoubtedly a slip of the tongue, but the other day I was introduced as the "eternal general." However, my advice to any future Attorney General would be to be very vigilant in this area.

Obviously the perception in any government will be from time to time that in advocating the cause of the disadvantaged, this can bring people into an adversarial relationship with government. I understand that. I have never personally had too much difficulty with it. However it is only a very small step from there to where you might create the impression that a specific community clinic is engaging in partisan political pursuits.

I said very frankly to our colleagues in the community clinic movement that they all have to be very vigilant about maintaining that appropriate balance. How one lays out these guidelines with any degree of precision is never an easy task.

This was not precisely the question the member asked but I thought I would share with him my major concern in relation to this issue as to the future of the community legal aid movement. Mr. Carter can address some of the processes in respect to funding.

I want to suggest, at the same time, that I think most of the clinics are acutely aware of that fine line they have to walk. However, occasionally I hear expressions of concern from members of the Legislature that the fine line is being crossed from advocating the rights of the disadvantaged to at least creating the perception of engaging in partisan politics. I think we have to be very careful about that.

Mr. Renwick: At some point a second look may be required by someone in an objective sense at that very question of the role of the community legal clinic with respect to community concerns as such, as distinct from the individual solicitor-client work or paralegal work that is done on an individual basis by the community legal clinics.

Mr. Breithaupt: Do you feel, Jim, an opportunity exists for a somewhat community activist focus, as well as the doing of particular legal tasks? If that is understood as part of the framework, any confusion over whether there are

certain partisan activities on one occasion or another can be sorted out.

Mr. Renwick: Yes. Let me give you a clear example, although it may be the worst example. I happen to be in sympathy with this particular position.

The example that came to my attention was, as you may recall, that there was a fight between two banks, the Bank of Nova Scotia and the Toronto-Dominion Bank, and city council with respect to the density of the new Bank of Nova Scotia development downtown. It was up front and centre as a political matter, because it appeared to breach all the work that had been done to contain downtown inner-city Toronto in the framework of a place that was not simply office buildings and devoid of the kind of mix that made it a living, breathing centre of the city.

Because of the expenses involved everybody backed off, so the matter was never challenged. There was a small group of persons in the centre of the city who were very upset and concerned about what was happening, because it would, in their view, tend to destroy the inner city as a place where people could live as well as work.

When you talk about living, you are also talking about people living in affordable accommodation in the centre of a big city, not about the people who can afford to live in \$100,000 or \$200,000 condominiums in the inner city.

As I understand it, that group approached the Canadian Environmental Law Association and asked CELA to represent this group. I do not think there was any final decision, but that immediately raised a serious concern in the minds of the clinic funding management with respect to whether that was an appropriate role for CELA to take in the matter.

There are many other concerns and examples. In my own riding, I am concerned about it because the Leslie Street spit is in the riding, and there are a number of very serious community concerns related to that. It is a matter related to the community, but that does not mean everybody who is interested in this matter is within the level of financial resources that would permit them to come on an individual basis to the community legal clinic in the area.

11:30 a.m.

There are a sufficient number of community concerns on the line which I agree involve something called community concern, which are not partisan political matters. Serious questions are raised about legal matters and health matters related to that kind of issue. It would appear, on the road in which they are going, that community

clinics are excluded from that kind of role and therefore it almost becomes a point where the term "community legal clinic" becomes a misnomer in it.

I was always grateful to Mr. Justice Grange, when he did his report, that he did envisage two roles for a community legal clinic. Rather than let the matter just go along and be faced with very rigid decisions by community funding, I have a feeling that it might be worth while looking again at the Grange report in the light of the nature of the role of the community legal clinic.

Hon. Mr. McMurtry: I think the issues you raise are not only of fundamental importance but are of crucial relevance to the future of the community legal aid plan. Before I respond, I would like to direct some questions if I may, Mr. Chairman, to the Justice critics for the two opposition parties because I would be very interested in having, as specifically as I can, your views in this matter in relation to where one draws the line.

Mr. Renwick: I would be glad to respond.

Hon. Mr. McMurtry: I will give you some examples that will help to make my concerns better understood.

First of all, we have to recognize that the economic realities of our present time dictate that one has to prioritize the needs of the community, and my own view is that the fundamental role of the community legal aid clinics must be to serve the individual person who is in need of legal assistance.

In the best of all possible worlds, it would be perhaps desirable to have sufficient government funding to provide assistance, some legal assistance, to any number of causes that might fall within the realm of public advocacy. I do not want to be misunderstood. I am not suggesting these are not very important issues; but, given the fact that the resources available for legal aid are very finite, one has to prioritize these resources and my own personal view is that the needs of the individual citizen who is caught up in some legal difficulty, the needs of the individual disadvantaged person, must be addressed.

I agree the immediate response to that is, "Oh, yes, Mr. Attorney General, but obviously some of these issues bear directly on maybe a whole community and therefore you cannot simply say the problem is any less important." Still, it was our purpose in establishing these clinics to serve the individual, and the extent to which that can be broadened into the area of law reform and advocacy of environmental issues generally—perhaps it is a major piece of construction in

downtown Toronto, which I can see can have a very significant environmental effect, a very significant impact on the quality of life for a number of citizens—just where you draw the line is very difficult, other than to make it clear what I believe are my personal views as to the priorities.

I gather the issue you raise is still before the legal aid funding clinic, but let me give an example of where I think the line is crossed.

I can recall a situation that was of concern to one of my colleagues in which a particular legal aid clinic was distributing leaflets encouraging individuals to go to a rally to protest a particular policy of the government of Ontario. In my view that behaviour, which is obviously part and parcel of our democratic system in general terms, can nevertheless significantly undermine the perception of the legal aid clinic movement, because of not only the perception but one might say the reality of involvement in partisan politics.

I have no difficulty in understanding the concerns expressed by my colleague in that regard, and I have communicated my concerns to the law society.

Again I want to reiterate that I recognize that this whole issue of public advocacy is very complex and the line is not very easy to draw, but I think this is a case in which the clinic clearly stepped over the line. You might well disagree with that, I do not know; but I think our discussion of this particular issue is of great importance here this morning because I am sure many people will be aware of it and will have an opportunity to peruse it in Hansard.

That is why I am particularly anxious to have your views and those of the member for Kitchener about where one draws the line. I do not want to use the terms "legitimate" and "illegitimate," I think they are inappropriate. But how does one establish the priorities, where does one draw the line between reasonable public advocacy that might be expected of a legal aid clinic and that which creates the impression of engaging in partisan politics?

It is an issue that has troubled me a great deal in the last two or three years in particular. If I thought I had the answer I would tell you what I think the answer is and ask for your comments, but I honestly do not have the answer.

Mr. Renwick: I just have three very brief comments about that. I have no problem agreeing with you in the circumstances you illustrated, of which I have no personal knowledge, that this is not a legitimate role; and certainly if the clinic on which I sit were to do that, I think I as a member

of the board would be speaking against that particular role.

I am talking about a professional organization when I speak about the objectivity, the detachment and the professional skills that are involved in the community legal clinics. I think it specifically draws attention to the almost imperative need to clarify the questions of standing in class actions; I think those are related to the matter.

11:40 a.m.

The other matter is that I would have thought there was a place, as there obviously was, recognized within the framework of the clinic system for professional specialized types of clinics such as the Canadian Environmental Law Association. It may get its funding from other sources as well, but it is funded through the legal aid plan.

It seems to me that a professional body such as that can, with proper guidelines with respect to the use of public funds, decide to perform a public advocacy role in the complex and difficult world of community concerns with respect to zoning, environmental planning and all that mix of things, which as you know is so expensive that no community activity will ever take place in that field unless there is an avenue through which it can be done by a body such as CELA.

If you agree to picking Mr. Breithaupt's brain and my feelings on these topics, I feel it should be looked at. As well as whatever independent things it does, CELA might be available by way of access to a community legal clinic to consult with CELA. The major areas are related to planning, environmental concerns and land use where the ordinary citizen feels out of it when there are legal implications.

Hon. Mr. McMurtry: Let me make one more observation in the same context, because I think it is important to get it on the record before we hear from Mr. Breithaupt. I would like you to respond to this too, if you can, Mr. Renwick, because I do not pretend by any stretch of the imagination to have all the answers.

A major area of involvement is obviously the whole issue of landlord and tenant matters. That is another sensitive area. Being in government, one is accustomed to criticism from both areas. We think we have a moderate, balanced and fair approach to these matters. However, judging by my correspondence over the years, on any given day I am likely to receive at my office downtown and at my riding office two letters—I receive many more every day—one from a landlord and one from a tenant.

The landlord will say that the government of Ontario is unfair to landlords, and that our rent review program and our legislation is unfair to landlords. On any given day I will have a letter from a tenant who will say the reverse, that we are not sensitive enough. Of course, when you are in government for a while you become quite accustomed to that type of criticism when you try to adopt a balanced approach to these issues.

Landlord and tenant issues are very volatile and will continue to be very volatile because that represents such an important economic activity and has such a major economic impact on our community.

My problem is the extent of the role the clinics play. Representing individual tenants is an important role; there is no question about that. There is at least one legal aid clinic that serves the small landlord; that is as it should be.

However, occasionally clinics will create the impression in their representation of individual tenants or groups of tenants that the real adversary is not the particular landlord but the government. When that impression is created, in the minds of many of my colleagues the clinics are clearly involving themselves in partisan political activity.

I am not sure what the complete answer is but I want the record to indicate some of the concerns that have been raised, concerns that trouble this particular Attorney General as one who is very deeply committed to the clinic system.

Mr. Breithaupt: Mr. Chairman, in the circumstance of Mr. Renwick's comments, he suggests the Attorney General will pick my brains and his feelings on this subject, but really it is quite the reverse. It is his brains that are being used because he sits on a board with direct interest in this area, but I have some feelings on the subject.

My feelings, and I want to hear more from Mr. Carter on this, relate more to the funding situation. It seems clear that the initial program was meant, as the Attorney General says, to deal with individual legal problems. Now we are finding there is an area that is not being covered by any other source. This is the area of the community sense of a problem developing, whether it is the spit development in Mr. Renwick's riding or some change of apartment building construction, such as you have had in your own riding, that suddenly affects a group of people.

Members of this group may certainly not have the funds to deal with opposing a developer, the city or whoever it may be that is advocating a program. Yet there may well be a community sense within an area of several blocks, within a town, wherever it may be, that a certain project, a certain development, a certain problem has a general interest and, therefore, some public funds used in the proposal of or opposition to that kind of project or problem is a reasonable expenditure of public funds.

If you look at the gap that then appears between a community interest and what the legal aid clinics are doing, you will find there are very few other opportunities to deal with the kind of problem where funds are going to have to be spent to sort it out.

You might say you can have the people in this community go to their alderman, mayor, member of the provincial parliament or member of Parliament, in order to have issues raised or to have some information obtained. That may well be, but it is not going to solve the question of what legal fees may occur if opposition or support for a particular theme has to be developed among a group of ratepayers, disadvantaged persons or members of the general public who feel they do not have an opportunity to be heard in a logical way on this kind of a problem.

11:50 a.m.

The gap exists because there is nowhere else to turn. The gap also exists where funds are concerned. The community clinics could undertake the useful task of being the focal point for these kinds of concerns if there is no alternative source of advocacy opportunity through a more routine mechanism within the government of Ontario, a mechanism much more open than, say, the present situation with respect to the Crown Trust shareholders.

For that matter, to have to go to cabinet for a decision on a commitment for funding certain applications or standings and status with respect to their particular problem, as the Attorney General says, does bring forth all sorts of very involved legal problems and not only a great expense of money but also a long passage of time before the problem can be resolved.

That may be the same sort of thing our colleague the member for Riverdale talks about in the development of that spit project at Toronto Harbour and the results environmentally, socially, in traffic congestion or anything else. It seems the gap occurs because a clearer definition of duties is wanted and because if that definition is forthcoming, clearly some commitment to funds is going to have to result as well.

I can see how members of the Legislature, in commenting upon a certain activity or other, may well feel a line has been crossed. It is important for us to more clearly define what we expect from those clinics. If the expectation is that individual problems are to be dealt with, if the funding is there for that purpose, then everyone will know where the rules are and where the boundary line is if it is crossed.

On the other hand, if a certain community advocacy occurs in the absence of an alternative, then that too may be part of the terms which are at least understood by all members of the Legislature and other elected persons, recognizing that partisan political activity is not appropriate. I would like to hear about the funding to see how this problem is dealt with. How does funding occur and accrue to something like the environmental law group for particular reasons, and how it is dealt with for the ordinary storefront operations as they have developed across the province?

Hon. Mr. McMurtry: Mr. Carter, would you like to enlarge upon that?

Mr. Carter: Mr. Chairman, first it is important to note that we are dealing with local boards. The clinic funding committee frequently deliberates and informs individual clinics about the issue of prioritization of activity.

The budgets for individual clinics are not great. Year after year we see applications for increased funding. Notwithstanding the fact that the budget over the last fiscal year increased by over 20 per cent, there still seems to be not enough money to go around for individual clinics and our response frequently has to be to them, "You have to prioritize your activity."

One point is significant. That is our expectation that clinics will have financial eligibility guidelines and that there will be some method of assessment locally as to eligibility and the financing of issues which relate to clients who do not have necessary means otherwise.

It is a time of constraint. The key issue here is to get clinics—and I speak as a committee member—to look at how they prioritize their work effort. On the issue of group matters—perhaps this is what Mr. Renwick is referring to—I think there is an expectation again on our part that, when a clinic looks at a matter that covers a broad range of the populace, there is a recognition of the group and its financial eligibility as a group.

When we look at the number of clinics we have—and the number currently is 44—we see there are only a few specialized clinics; reference has been made to the Canadian Environmental

Law Association. I perceive the main activity of clinics is devoted to the individual. That is where I as a committee member would see the greatest want at this time.

On the other hand, I think the regulation we work under does not fetter the group application aspect. I cannot see that in the deliberations and decisions of the committee, over the last year anyway, there has been any fettering of the activity of clinics in this area. I think they too are working with the idea that they prioritize their work and perhaps a greater priority at any given time is an individual and his request.

Mr. Breithaupt: Of course funding patterns, as they may well be, may have the effect of forcing a prioritization without saying so.

Mr. Carter: That is correct.

Mr. Breithaupt: Whether a certain issue or project may be worthy of involvement may simply be beyond question, whether it is on the board on which you are involved or otherwise, depending on funding. A blank cheque clearly is not possible either.

Mentioning again this spit development in Toronto, have there been other clinics that you are aware of that have considered various local projects, such as an environmental matter or an apartment redevelopment matter, but have had to stand aside mainly because of the financing requirements and the priority they otherwise put to individual case loads?

Mr. Carter: Probably yes, although we as a committee would not necessarily know. CELA is before the committee and I do not think it is appropriate that I comment. I would judge that out there in the individual communities these decisions are being rendered by the local officials of the clinic. They are looking at the work load and case load they have, which is beyond doubt very high, and they make a judgement they will go in one direction as opposed to another, which might involve one of these group community issues.

Mr. Breithaupt: Yet the general guideline or the traditional pattern that has grown up has been an expectation of individual cases coming first. Presumably the various boards of directors for the clinics have that bias, shall we say, to deal with things in that area, perhaps to a degree at least because the funds are not available to do otherwise. When you take on a large and expensive task for one of these major projects it could use up much of a budget.

Mr. Carter: The volume of case activity in an individual clinic would virtually dictate that it

has come about this way, that they devote their work effort to the individual; but as I think of the regulation and the broad mandate it provides, there is still this avenue to consider these bigger issues.

The economy, of course, has fluctuated over the last two or three years. In this day and age there have been a number of individual citizens in the communities coming forth and requiring assistance. I see it as more individualized. I do not know about, let us say, bias within a local community board or its officials as to a certain type of case activity. I think they meet the work load as it comes along. Nine times out of 10 it pertains to individuals and their problems.

I think you make a very valid point. The funding, when you draw the line, is the final determinant of what they do, and in many ways we are not able to meet their funding requests because we have a limited budget. If anything, over recent years the emphasis has been to expand the number of clinics in the areas where there is not a service. That is the prioritization the committee sets.

12 noon

Mr. Renwick: Mr. Chairman, I have two or three other matters to which the Attorney General might respond briefly. On the question of persons detained under Lieutenant Governor's warrants it has come to my attention, and I do not know whether this is accurate, that there has been a procedural change in connection with the way those were done. I do not pretend to be knowledgeable beyond what one picks up as a lawyer or as a layman in the general realm of things you do pick up.

It had been my understanding that the question of the release of a person held under a Lieutenant Governor's warrant in fact comes before cabinet and that the decision of the Lieutenant Governor—which it is, as I understand it—is made on the advice of cabinet.

I just assumed this was the way the process operated, because under the Mental Health Act of Ontario there is a provision that states that the advisory committee—which is still headed, I think, by former Justice Edson Haines—makes a report, and the Mental Health Act, which sort of picks up with the Criminal Code in establishing the review committee for the process, has a provision that the report of the advisory committee goes to the Lieutenant Governor in Council.

It is now my understanding that in other jurisdictions it has been strictly interpreted. I can understand, having looked into it briefly, the thread by which lawyers would get to the position

that the provincial cabinet has nothing to do with it, that the Lieutenant Governor is named in the code in isolation from any other reference at all.

I first thought some residual prerogative of the crown was involved in it, but of course it is clearly stated in the one case I looked at, Regina versus Saxell, that no, he is the agent of the federal government in performing his role.

What concerns me is that there is no accountability. I am not speaking in personal terms, of course, because I know that the present Lieutenant Governor, whatever duty he has to perform. would perform with the greatest of intelligence, attention and care. But I had thought the procedure was that the report of the review committee-which is envisaged in the code and which is complemented under our Mental Health Act to comply with the code provision, and which has been said to be the review committee envisaged by the code-went to the cabinet and that the cabinet reviewed the report with respect to discharge and then referred the matter, with its advice, to the Lieutenant Governor, who exercised his function that way.

I believe this has changed and that the lawyers have looked at the matter and now say no, it is the review committee under our Mental Health Act that reports to the Lieutenant Governor in his personal representative capacity as the agent of the federal government; there is no longer any cabinet review with respect to it and it becomes one of those strange situations in which the Lieutenant Governor acts without the advice of the cabinet.

As I say, I can understand how lawyers got to that point. The Honourable Mr. Justice Weatherston, sitting with the Honourable Mr. Justice Jessup and the Honourable Mr. Justice Martin in the Saxell case, outlined the process quite clearly.

First, what was the practice? Am I correct that the practice was as I have stated it, that the practice has been changed and that the Lieutenant Governor now acts in his sole capacity as the person named in the Criminal Code only on the review committee's advice, and that there is no involvement of the provincial cabinet or, indeed, of any other accountable body in our parliamentary system?

Mr. Breithaupt: This is a point that was raised with me last week as well. I found it rather passing strange, as our friend, Donald MacDonald, was wont to say, that the Lieutenant Governor apparently had personal opinions or opportunities to deal with matters of this kind.

I thought that, other than a rather old-fashioned view of the prerogative of disallow-ance of certain legislation there were, in the Lieutenant Governor's instructions, not many other personal opportunities that he would have to be what traditionally his role has been, to be the agent of the federal government in the province. To hear that he had some personal opportunity to act without the advice of the ministry came as rather a surprise.

I am looking forward to hearing the response as to whether or if the procedure has now changed from the cabinet committee filtering process that I, at least, had always presumed was the pattern to be followed in matters such as this.

Hon. Mr. Murtry: I believe there has been variation of the process. To make sure that I am absolutely right in what I say, I prefer to defer the answer until tomorrow because of the importance of this.

Mr. Renwick: I would appreciate that very much. The very brief quotation here is: "In the absence of the above quoted sections of the code"—which are the ones that refer to this matter and so on—"the right to the custody of an accused person who has been acquitted on a count of insanity would, I assume, vest in the Lieutenant Governor. That right has now been assumed by Parliament in criminal cases and, by it, delegated to the Lieutenant Governor so that he derives his authority from the code and not from any vestige of the royal prerogative." Therefore, in a sense, he is seen to be an agent of the federal government.

I must say it was a matter that, off the cuff, I thought had gone to cabinet and that in some way the cabinet advised the Lieutenant Governor in the traditional sense that we think of the sovereign representative acting on the advice of the duly constituted executive council responsible to Parliament, and that was that role.

The next point I would like to raise is the question of whether, during the estimates, we could have a brief statement with respect to bringing up to date the status of women in the ministry. The one I have is this Report 1981/82: The Status of Women Crown Employees. There was a summary in that report which you undoubtedly have, but you can have this one if you want it. I would like to have an up-to-date statement. I do not need it now. Do you need this or not?

Mr. Campbell: We have that.

Mr. Renwick: At some point could we have an update of the position of women in their employment in the ministry?

12:10 p.m.

Hon. Mr. McMurtry: I think you will recall, Mr. Renwick, we made some reference to it in our opening comments, outlining some statistics.

Mr. Renwick: Yes, but I thought this format that was set forth in this report on the status of women crown employees was a useful format that could be continued from year to year in the hope that we could get some continuity in our comparisons.

Hon. Mr. McMurtry: We could deal with that now.

Mr. Renwick: All right. My colleague said he had to be out for a few minutes.

Hon. Mr. McMurtry: The director of our affirmative action program, Ms. Helen Walker, is here, if you would like her to address this issue now.

Mr. Chairman: Please state your name for the record.

Ms. Walker: Mr. Chairman, my name is Helen Walker.

We have some up-to-date statistics. We do not have all of the data that you are asking for at the moment, Mr. Renwick, but we can provide that to you later.

In terms of some of the things the minister mentioned in his opening remarks there were, first of all, for example, higher promotion targets; during 1983-84 we had set 11 targets within the legal group and were successful in having 12 women appointed, so we exceeded our target in that area.

With regard to accelerated career development or various types of on-the-job training, 138 women were involved during 1983-84 and that represents 6.2 per cent of women.

On increases within various modules or categories during 1983-84, within the legal group there was an increase to 19.3 per cent by the end of the fiscal year; within the administrative module there was an increase to 39.8 per cent of positions being held by women by year end; and within the professional module as a whole, which includes the legal group, an increase to 19.7 per cent by year end.

Mr. Renwick: I can only compare it to this particular report I have here, but that sounds like a reasonable degree of progress in the area.

Ms. Walker: We are quite pleased.

Mr. Renwick: You are? I am not wedded to this particular form of report, but I think it would help if, each year, perhaps as part of the briefing notes of the ministry, we could include on a

standardized kind of form what the employment position of women in the ministry is on the basis of affirmative action so that we could see each year what the progress has been.

Ms. Walker: Certainly.

Mr. Renwick: It might be possible to devise something out of this kind of form, with whatever adaptations from this particular ministry's point of view, that might be more explanatory, and then each year we could check it out and know where we stand. If progress is not made in the Ministry of the Attorney General, it is not going to be made anywhere. I say that simply because the legal profession has been an explosive area with respect to women's participation in it.

If you could give us a statement, if a formal statement was prepared, it would be helpful, and then perhaps we could follow it on, if that made sense.

Ms. Walker: Such a statement has already gone to the women's directorate, but they simply have not culled it into this file.

Mr. Renwick: Then perhaps we could have it tomorrow or the next day.

Ms. Walker: Certainly.

Mr. Chairman: Thank you very much.

Are there any further questions on vote 1502, Mr. Renwick?

Mr. Renwick: Yes, I did want to ask the Attorney General about this question of compensation. I want to stay away from the highlighted cases; I am interested in those, of course, but I have a sense that if we focus only on those cases, we will not get to the fundamental problem of a system that, no matter how well it does, is going to create—both on the civil side and on the criminal side—cases of what is known, not only generally but also within that professional context, as miscarriage of justice.

In a strange way, miscarriage of justice is not only a descriptive term which is expressive of the problem but also has professional connotation about it.

I have two matters. One has not come to any conclusion and that is the William Franklin Baker matter that I have raised in the assembly on a number of occasions. The Solicitor General said the other day the report had been received.

I am not jumping to any conclusion, but that is illustrative of where there may have been—and I emphasize the "may have been," a case because I know only what has been available to me through the media and from a brief talk with the lawyer

for Mr. Baker and so on-but that is illustrative of one situation.

The other was the matter on which I wrote a refresher note to the Attorney General the other day. I had written on March 12 about this Mr. Donald Roy Evans. This was a criminal matter, where he had been charged on 25 counts of theft and two counts of fraud. He sent various pieces of material on to me and I reviewed it. As it happened to fall into an area where I had some past knowledge, the financing of car dealerships and so on, I must say I felt this man was put through quite an ordeal which would not necessarily, or should not, have taken place. But in due course I will get a response for it.

To my surprise, some time after I had written to the Attorney General, in July of this year, it was reported at length in the Globe and Mail.

Let me try to frame my questions. I think there are basically two questions in my mind. What are those particular isolated cases within the justice system and maybe, on occasion, in the civil system where there has been something called a miscarriage of justice? What are the limits of that term, so we do not get into this argument that everyone who is acquitted should be recompensed, or everyone who is discharged, or whatever the data is?

12:20 p.m.

Second, what is the body which would best be able to make that determination, rather than leaving it on an ad hoc basis to come up every time there is a case with a high degree of public focus on it, such as the legitimate and very appropriate Marshall case? Then there is the case in British Columbia which was reported in the Globe and Mail this morning, where the Justice department in Ottawa said there had been, I think, a terrible miscarriage of justice. However, I am talking of the more limited case.

My third question is, is there this study in the ministry? I keep seeing little bits and pieces in the press that there is a study in the ministry and that the Attorney General may make it available. I think the last report I saw was in the Ottawa Citizen of November 19, where "Attorney General Roy McMurtry has agreed to introduce the results of a provincial study on the project in the Legislature, possibly before Christmas. The study's author says the report may recommend that the crown compensate people wrongly accused of a crime for their legal costs, and possibly even for pain and suffering," etc., etc.

Would you bring us up to date? Has there been some progress on this question?

Hon. Mr. McMurtry: This is obviously a very high priority issue for the administration of justice. The Marshall case, and the case you referred to that was reported in the press today, have obviously focused the public's attention.

I am very interested in this issue. Mr. Renwick, you may have some recollection—it would not be anything more than, I suppose, a vague recollection at this time—of a major effort that I was involved in, before I ever ran for public office, with one Ronald Shatford. It became a fairly celebrated case. This was a—

Mr. Renwick: Morton Shulman was involved in it?

Hon. Mr. McMurtry: No, Ron Haggart was involved.

Mr. Renwick: Ron Haggart?

Hon. Mr. McMurtry: Yes; and I became Mr. Shatford's lawyer. He was serving 20 years in the penitentiary for a robbery that I was convinced, by reason of information that came to light, he did not commit.

We were able to persuade the Minister of Justice to exercise a very rarely-used prerogative of the Minister of Justice, ordering a new trial after all other avenues of appeal had been exhausted. Mr. Shatford got his new trial. I was not involved in the first trial, but the second jury acquitted him.

I only mention this case to indicate the fact that I have been interested in this issue for a long time. The only difficulty with that issue and the question of compensation is that while Mr. Shatford was clearly innocent of this particular armed holdup, and while he had served a fairly lengthy period in prison—when I say lengthy period it was two or three years, at least two years—before he received his new trial, we did not have to address the issue of compensation directly because his alibi at the first trial had been that, while he certainly was not involved in this very serious charge, he was involved in other criminal activity at that very moment—of a much more minor nature, albeit.

It was a very important case in my career, and one that, to my mind, raises a number of very interesting issues, including the issue of compensation, although he might not have been the most appropriate person for compensation. However, it is an issue which I have discussed with criminal lawyer colleagues over the years, and there has always been a very real ambivalence within the ranks of the criminal bar about this issue.

Although it may not necessarily be so-our discussion paper, which I will come to in a moment, will outline the options-it has been

generally thought that, in order to award compensation, there would have to be some specific finding by a tribunal which would mean that, for those accused persons or those people who were acquitted, there might be some stigma attached to them if they did not subsequently appear before this tribunal, or if they were looking for some sort of special verdict. There has always been this ambivalence within the defence bar about this issue.

Mr. Renwick: I think that this would be absolutely the wrong road.

Hon. Mr. McMurtry: But recent events in this province have obviously given the issue a very high profile as well. We have a draft discussion paper. My original intention was to have it in its final form before now, but I have come to the decision that, given the important role the Grange commission is performing, it might be misunderstood if I were to release this discussion paper prior to the report of Mr. Justice Grange.

Mr. Renwick: You certainly cannot.

Hon. Mr. McMurtry: I am not totally committed to any particular course of action, but, quite frankly, I have been very hesitant to release a paper of this kind in the middle of these very important deliberations. I am not suggesting for a moment that it could have any effect on the ultimate report.

Mr. Renwick: No, I understand that.

Hon. Mr. McMurtry: However, it is the public perception as to whether or not this would be appropriate that concerns me. The whole issue is certainly very complex.

As I have said, I think, in earlier discussions, one of my great problems in dealing with this issue is that we do not set up a process that would undermine some of the fundamental principles of our criminal justice system, such as the presumption of innocence.

Mr. Renwick: I understand.

Hon. Mr. McMurtry: We are obviously all concerned too about not creating a system that might somehow influence a jury in relation to bringing back a verdict of guilty or not guilty. For example, juries will often acquit people—I hope on all occasions they accept the law as given to them by the judge, namely that they must acquit if there is a reasonable doubt about the guilt of the accused, and it is not established beyond a reasonable doubt.

Having discussed these cases with jurors over the years-not so much now as in earlier years before jurors were discouraged from discussing these matters—I could very well envisage a case where a jury might say: "Well, this guy is clearly a rascal. He is clearly a bad character. We still think that there is a reasonable doubt about his guilt, but if this character is going to be compensated as a result of our acquittal, maybe we had better rethink this."

These are the sorts of issues that I know you are concerned about.

Mr. Renwick: You are going to get my views on this, whether you ask me for them or not.

Hon. Mr. McMurtry: I want them. The next thing I was going to say was that, before we release the discussion paper, I would like very much to have your views and the views of any members of the committee. That might well improve the quality of our discussion paper, so I was hoping that you might give me some of your thoughts.

12:30 p.m.

Mr. Renwick: Well, I have a two-minute response. I think it is entirely separate from the way in which the courts presently function. I think the courts should not be affected in any way with respect to it. The cases that go before the courts should be decided in the process which is presently used. Under absolutely no circumstances should somebody start to intervene by saying that this person deserves some compensation and this person does not. That has nothing to do with it. That is entirely clear.

The ultimate backstop, the one used in the long term, appears to be, in the present state of the world, the provincial cabinet in the particular province where public pressure is brought to bear on the administration of justice.

What I am talking about is somewhere in between, the ultimate decision of a provincial cabinet, such as took place in the Marshall case. I noticed that it was very clearly stated by the federal justice, in the case that is in the paper this morning, that the decision will be up to the British Columbia cabinet, so we would be involved in it.

It would seem to me that the appropriate body is—what do you call it? The council of judges?

Hon. Mr. McMurtry: The Ontario Judicial Council.

Mr. Renwick: Yes, the Ontario Judicial Council. Is that the official name of it?

Hon. Mr. McMurtry: Yes.

Mr. Renwick: It seems to me that if a citizen walks out of the court, and, for whatever the reason, feels that there is—in this case there has been—a "miscarriage of justice," he should be

able to make a formal written application to the Attorney General of the province, requesting that the circumstances be referred for consideration to the Ontario Judicial Council, for a determination as to whether or not there has been a miscarriage of justice—if that is the appropriate term. I can think of no better one.

"Miscarriage of justice," it seems to me, says that no one in the system has acted improperly, that there has been no tampering with the system, nothing like that at all. However, the way it works, and given the number of cases, somewhere along the line, someone is going to get hurt to an extent that is unfair or undue, whatever you want to call it. You ask that the matter be referred to the Ontario Judicial Council for its recommendation with respect to what compensation, if any, should be given—whether the case merited it, whether this was a case that did fall within that framework.

Naturally, it will be obvious that the particular judges involved, if they happened to sit on the judicial council, would disqualify themselves from participation in it. The council would make a response to the Attorney General and the final decision would be up to the cabinet. For what it is worth, I throw that out.

Hon. Mr. McMurtry: That is very helpful, Mr. Renwick. I think we will certainly include that in our discussion paper.

Mr. Renwick: I would appreciate it if you can, because that is the only process I can see that would deal with this.

Mr. Chairman: Are there any further comments on this issue? Gentlemen, we are on vote 1502, and I think—

Hon. Mr. McMurtry: Excuse me, Mr. Chairman. I was wondering whether Mr. Breithaupt would like to offer his views.

Mr. Chairman: He indicated that he did not have anything—

Mr. Breithaupt: There was one point that I did want to raise just briefly and that is to get an update from the Attorney General on the native court worker program. It is referred to on page 27 in the outline of ministry activities.

I was wondering particularly if there is any sense of migration patterns, so that those who are dealing with the attempts to assist native persons in appearances before the courts are aware as to where population changes are occurring.

If, for example, persons leaving the traditional areas where they have been living are coming into communities, are they remaining in the general area, or, for example, does Metropolitan

Toronto become an attraction, and therefore cause concern that services will be sufficient for the increased numbers of persons who might very much benefit from it?

Hon. Mr. McMurtry: Mr. Carter is in the best position to bring us up to date as to just where we are.

Mr. Carter: We meet with the federation not as frequently, perhaps, as we might. Of course, they meet regularly with the individual centres. If my memory serves me correctly, the patterns we have seen over the years are still continuing—that is, movement towards urban centres. That is obviously where we focus our attention with this program.

When you mention Toronto specifically, I know that centre; I have visited it a number of times. It is a very active centre, and it is becoming more active, because more native people are coming to the urban community in Toronto.

In the north, I would have to say that there are increased numbers coming into Thunder Bay, and in North Bay, for example, there are increased numbers. It becomes, in many ways, a matter of economics, employment, and where the jobs ostensibly are. The perception in the rural communities is that you go to the villages, towns or cities to seek employment. That is the backbone of the program—that bridging between the rural communities and the cities.

Mr. Breithaupt: Is there some interest in developing further locations beyond the 17 centres you have now, or are those locations sufficient to deal with the requirements?

Mr. Carter: The catchment areas served by the various centres would suggest, on the surface, that every area is covered, and that the answer rather is to supply more court workers to individual centres, not to expand the number of centres.

There is an additional centre, if my memory is correct; about eight to 12 months ago, a new centre was set up in Fort Erie. However, in general terms, increasing the number of workers per centre is the issue.

Mr. Breithaupt: The province is, in your view, effectively covered as far as locations and the opportunity to deal with the particular problems go; of course, one might wish for more personnel in those centres, if that could be accommodated.

Mr. Carter: That would be my perspective. One of the problems is in outlying areas where we have courts, and getting workers into those

remote communities. More and more budget becomes a concern—and I think I have raised budgets already—because of the increased cost of transportation and getting a worker to a site. For example, air travel in the north and northwest is difficult at any time of the year.

Mr. Chairman: Is there anything further on vote 1502 by any member? We are on vote 1502, but, technically, we are supposed to deal also with 1503 and 1504 today, to keep to the schedule.

Mr. Renwick: Can we go on to vote 1503 now?

Mr. Chairman: Yes, I think so. Shall vote 1502 in its entirety carry?

Vote 1502 agreed to.

On vote 1503, guardian and trustee services program:

12:40 p.m.

Mr. Renwick: Mr. Chairman, I wanted to raise the vexed question of the Praxis Corp. and Mr. Buchbinder, the private prosecution. I have raised this on a number of occasions. I believe this is the appropriate vote under which it should be raised.

Interjection.

Mr. Renwick: No, this has to do with the long, drawn-out case that Mr. Paul Copeland took to the Supreme Court of Canada. The justice of the peace was directed to pursue the process.

In any event, Mr. Paul Copeland, the lawyer in the case, wrote to me—this is a letter to me dated May 15 of this year—saying: "Last fall, as a result of the questions you asked at the Attorney General's estimates, Mr. McMurtry indicated that representatives of his office would be meeting with me in order to discuss the Buchbinder private prosecution.

"In the fall I met on two occasions with John Takach and Howard Morton. I orally gave them a substantial list of questions and matters that I wanted to get answers to. They indicated that those answers would be forthcoming and that I probably should have had them by the early part of December. Over the next many months, always in a very polite matter, John Takach has apologized for his inability to complete his response to me.

"At the end of February, in a civil action in the federal court, the federal government, citing national security grounds, declined to produce 115 documents. I suggested to Mr. Takach, and to the deputy minister, Archie Campbell, that the provincial government should get a look at those 115 documents. Both of them have told me that

question would be discussed, and they would be meeting with Mr. McMurtry in the near future.

"From newspaper reports, I gather that things are rather slow in the Legislature. If this is correct, I would appreciate it if you would pose a question to Mr. McMurtry about the 115 documents and also ask him when he thinks Mr. Takach will be in a position to comply with his undertaking to respond to me."

Then, in June of this year, Mr. Copeland sent on to me a copy of his letter of June 25 to Mr. John Takach, crown law office, about the Howard Buchbinder private prosecution, in

which he states:

"I met with you on October 26, 1983, in regard to the above matter. At that time I posed to you a number of oral questions that I had concerning the matter. My notes of those questions cover the following areas."

He then cites those nine specific items, communications with respect to the progress, or reasons for lack of progress in the matter. He goes on to say:

"On January 20, Harry Black appeared for the Attorney General and requested an adjournment of the pre-inquiry on the basis that it would be more appropriate for me to receive your reply prior to requesting the justice of the peace to issue subpoenas for various witnesses."

He outlines two or three other pieces of correspondence and goes on:

"Both you and I attended before the justice of the peace on April 25 to make submissions. At that time, you had still not delivered your written reply to me. The justice of the peace issued a subpoena for Mr. Venner. The return date on the subpoena was June 27. As a result of communications with solicitors for Mr. Venner, a new date for Mr. Venner's attendance has been set for August 22.

"I am still more desirous of having a written reply to the matters raised. Would you please let me know whether you are ever intending to provide such a reply, or whether a decision has now been made not to reply."

As I say, I have not had an opportunity to speak to Mr. Copeland since he wrote to me in June. I would appreciate it if you would make whatever comment or response you can to the matters raised in that correspondence.

Just before that, I suppose I should say that in the parallel kind of situation, which is the Dowson case, the Royal Canadian Mounted Police official was ordered to reply by an Ontario Supreme Court judge in the case related to the private prosecution of Mr. Dowson. I understand, if the report is right, that that decision of the Supreme Court is subject to a further appeal. I am not certain of that. Could you bring us up to date on the factual matter and respond to those concerns that Mr. Copeland has asked me to raise about this matter?

Mr. Takach: John Takach, Ministry of the Attorney General.

Hon. Mr. McMurtry: Assistant deputy minister and director of the criminal law division, Ministry of the Attorney General.

Mr. Takach: I think you have the state of affairs up until June 1984. Upon receipt of Mr. Copeland's letter, I wrote a two- or three-page response to him at that time, dealing with the 115-document request. I take it that you do not have a copy.

I indicated in the letter that basically—inasmuch as on the last court appearance Mr. Copeland had conceded to the justice of the peace that there was no nexus or connection he could make between the 115 documents and the events of December 1970 or 1971; I think it was 1970—there was no just cause or reasonable grounds to ask the federal government to look at documents that had been the subject of the certificate to which he had referred.

In any event, on that issue, I wrote back to Mr. Copeland saying: "I thought we had agreed that there was no basis for any inference that there was a connection. In fact, because of what I am about to respond to you on behalf of the ministry, our view in that regard is fortified."

I do not think I got a response to that letter. In any event, some time in August 1984 I wrote Mr. Copeland a 25- or 30-page response on behalf of the ministry covering eight or nine areas that he and I had discussed within the preceding year. At some point we had met, and I think you reiterated them in that letter, if I am not mistaken.

In any event, I answered the questions as fully as I thought we were able to do, and I put those to Mr. Copeland in a letter, as I say, some time in mid-August, shortly before the last court appearance on the Buchbinder matter. I have received no comment, adverse or otherwise, as to the response.

I was asked for a copy of it by counsel acting for Mr. Venner, who was subpoenaed to testify. I declined to provide him with it, saying that if Mr. Copeland chose to do so, I was quite content for that to be the case.

In the last court appearance there was an adjournment sought by counsel for a witness so that the matter could be further dealt with in Supreme Court. That is to come up some time

around November 5 or November 10. There will be an application made on the witness's behalf, in relation to the anticipated area of that witness's testimony. The matter stands there.

In so far as the undertaking given last fall goes, that has now been complied with. There was some delay, but the files were voluminous. I was not directly involved in the matter at the outset. The officer in question, as I pointed out to Mr. Copeland, was away on sick leave and it was necessary to review and meet with him in order to put our position to Mr. Copeland accurately.

12:50 p.m.

Mr. Renwick: Thank you.

Mr. Chairman, on the next matter, I would like to have whatever comment you feel can be made on it. These are matters which I have raised on other occasions. I am most anxious to keep up to date, if it is possible. I would like to complete them at some time.

Regarding the Church of Scientology, and the problems that have arisen in connection with those proceedings, could you, in a brief way, summarize where those matters now stand? The latest matters were with respect to concerns that there had been contempt by certain officers of the ministry related to documentation.

Could you, in a synoptic way, summarize where that matter now stands and also the question of the release of the documents which were seized at the time of the search warrant?

Mr. Campbell: There was a complicated series of court proceedings launched by the Church of Scientology against various defendants. In order to sort them all out for you, it may take the combined resources of me, Mr. Takach and Mr. Wright, all of whom are here.

The most recent thing that happened in court was a judgement of Mr. Justice Cromarty last Monday, setting the procedure for the contempt of court matter which was brought against two crown law officers by the Church of Scientology. That matter came before Mr. Justice Cromarty, who set a date of November 5, I believe, for the trial of the contempt matter. That judgement is available. It sets out to some extent the history of the multitudinous proceedings.

I must say that it is a matter of very deep concern to us that the counsel who brought that motion chose to read it, gowned, on the front steps of Osgoode Hall, before the motion had been served and before the motion had been filed in court. That is a matter which we intend to take up with the Law Society of Upper Canada.

As to the complicated series of court proceedings, there is still a series of matters outstanding

before Mr. Justice Osler in relation to an application to quash the search warrant. A number of orders and undertakings were made with respect to the sealing up of those documents.

There was also an application by the Church of Scientology, I believe, styled as a judicial review of a decision of an official in the Ministry of Consumer and Commercial Relations in relation to the granting of power to perform marriages. Those various proceedings have been greatly slowed down, as I understand it, by the contempt application.

I believe that Mr. Wright may be able to help out with respect to the precise state of the civil cases. I believe that someone appeared in court recently with respect to dates for those matters, which may possibly have to await the determination of the contempt matter scheduled for November 5.

Mr. Wright: I am Blenus Wright, assistant deputy minister, civil law division.

Mr. Renwick, there has been an appeal brought by the Church of Scientology from the order which was made by Mr. Justice Sirois allowing access to the deputy registrar general, to certain documents which had been seized under the search warrant.

We attended on Monday before the Court of Appeal. We had brought a motion to quash the appeal brought by the Church of Scientology on the basis that it is our submission that there is no appeal from that order by reason of the fact that the Criminal Code does not provide an appeal. The Court of Appeal is a statutory court and therefore there is no appeal. There would be other remedies for the Church of Scientology, but not an appeal to the Court of Appeal.

Preliminarily, the Chief Justice raised this question: By reason of the fact that the validity of the search warrant had not yet been decided by the court, should the Court of Appeal deal with the issue of an appeal, and quashing the appeal, until Mr. Justice Osler decided, in the first instance, whether or not the search warrant was valid?

If the search warrant was not valid, I believe the order of Mr. Justice Sirois then would be basically a nullity.

Mr. Renwick: The next matter I would like to be brought up to date on is the diligence with which the ministry is pursuing the appeal to the Supreme Court of Canada on the question of the constitutional validity of the Theatres Act with respect to the decision of the Court of Appeal of Ontario in the initial instance with respect to the lack of regulations.

That matter is from the point of view of the position that our party has taken that the proposed amendments to the Theatres Act should be settled first. I had some indication that perhaps it is not being dealt with as speedily, as far as completing the appeal process in the Supreme Court of Canada is concerned. Could you bring me up to date on that appeal?

Hon. Mr. McMurtry: We may not be able to do that until tomorrow, Mr. Renwick. My recollection is that the government is appealing, as you properly stated, but also there is an appeal from the other side from the decision of the Court of Appeal.

In other words, as I recall, the respondents in our appeal, the people who brought the application to challenge the legislation, are appealing the substance of the Court of Appeal's decision which stated, as I recall the decision, that the film review board was not in itself contrary to the Charter of Rights. The legislation, as you recall, was struck down on the issue of the criteria that there were not statutory guidelines, the criteria in relation to—

Mr. Renwick: That is the appeal that is going to the Supreme Court of Canada?

Hon. Mr. Murtry: Yes, but I think both issues will be dealt with at the same time in the Supreme Court of Canada. We will bring you up to date on it.

Mr. Renwick: I would like to know whether all of the paperwork with respect to that has been completed and whether it is simply awaiting the hearing in the courts or not.

Hon. Mr. Murtry: Yes.

Mr. Renwick: I noticed the other day that there has been a second area of that act which was held to be unconstitutional as well. In the A Space case, Mr. Justice—

Hon. Mr. McMurtry: It was a seizure of videotapes, I believe.

Mr. Wright: It was His Honour Judge Bernstein.

Mr. Renwick: Is it your intention to appeal that decision? That is the second question to which I would appreciate a response.

Hon. Mr. McMurtry: I do not know whether a decision has been made or not, but I will try to let you know tomorrow.

Mr. Renwick: Perhaps you could let me know if that is so.

We have before the assembly the first reading of the new Elections Act. I have been concerned about the right to vote under the charter of persons who are in detention or imprisonment in Ontario.

I looked at the Saskatchewan case-I do not think I have it with me-which indicated a series of applications was brought on a series of questions with respect to rights related to the charter of persons detained in Saskatchewan under remand. I think there were eight or nine issues raised.

The only one on which the judge did not grant the application, or quashed the application, was on the question of the right to vote. A prisoner on remand would appear to him, in his judgement, in his opinion, to be entitled to the right to vote under the charter.

I would appreciate it if, whenever the Elections Act actually comes before parliament, you would include in the documentation or presentation which is available—I know it is not your bill—whatever your views are on the question of the various classes of person who are detained in the province, on the question of the right to vote under the charter.

There are all sorts of persons who are detained and for whom provision is not made to vote. I think it is an important issue and I had raised it earlier with the Minister of Correctional Services (Mr. Leluk) as well. I understood they were doing some work in that area on that particular topic.

1 p.m.

I had been in touch with Professor Terence O'Connor at Queen's University, who had in that very hurried application, just before the federal election, made an application on behalf of a person in the federal penitentiary. I think it went to the federal court. It was not granted and the Supreme Court of Canada refused leave to appeal. According to Professor O'Connor, who was acting, the substance of the question was not dealt with. It is still an open question, as I understand it, as to the extent of the ambit of the effective operation of the right to vote.

I think our act should specifically take that into account when it comes before the assembly.

Perhaps I could now ask what the state is, if there is any state to report on, of the Bear Island Indian claim with Chief Gary Potts. I understand that it is completed.

Hon. Mr. McMurtry: It is still under reserve. Mr. Renwick: But it has been reserved?

Hon Mr. McMurtry: Yes. The trial is completed, but we are awaiting a judgement.

Mr. Renwick: Should I hold my breath?

Hon. Mr. McMurtry: We are all holding ours.

Mr. Renwick: I suppose there is just no way of knowing when the judgement might come down or—

Mr. Wright: There is really no way of knowing, but I am expecting that there will be a decision some time before the end of the year.

Mr. Renwick: And you would anticipate it would be a definitive decision of the court on that? I am not saying that it will not be appealed, but I meant that the substance of all of the issues will be dealt with in the judgement, in your anticipation?

Mr. Wright: I cannot anticipate anything. All I know is that the Honourable Mr. Justice Steele, after sitting for 125 days very conscientiously, every day, will address his mind to all of those issues and give his very best decision.

Mr. Renwick: Are there any other issues affecting the native peoples outstanding in court now?

Mr. Wright: We have some that are winding their way into court.

Mr. Renwick: Would it be possible for me to have at some point just a single sheet setting out those issues that are still outstanding in your responsibility as minister, as the law officer of the crown, in relation to native peoples' claims, whether they are ultimately going to court or are before you for resolution?

Mr. Wright: Mr. Renwick, I can tell you that one of the two main ones at the moment is the issue in the Shawanaga band as to whether roads going through Indian reserves are public highways or not. That is a main issue, and we have just finalized our statement of claim and served it in that particular instance.

The other issue involves the Treaty 3 area, the question being whether the lands covered by waters between the projecting headlands is part of the Indian reserve.

Mr. Chairman: Mr. Renwick, may I draw your attention to the clock, please. If you have anything further to discuss on Bear Island, maybe we could do it tomorrow.

In the meantime, could we pass vote 1503 in its entirety?

Mr. Renwick: I am sorry. Which one?

Mr. Chairman: Vote 1503. We are going to be dealing with 1504.

Mr. Renwick: And we will hold 1504 until tomorrow.

Mr. Chairman: Yes, if you would like, we can.

Mr. Renwick: Because we were what? Half an hour late in starting this morning.

Mr. Chairman: Fifteen minutes.

Mr. Renwick: That is the public trustee and the official guardian.

Mr. Chairman: No, no; that was 1503, I believe. You were actually on 1504, but I did not correct you. I am sorry.

Mr. Renwick: Oh, I am sorry. I would be happy to pass 1504, as long you could hold 1503, because we have not dealt with the public trustee and the official guardian. It is my arithmetic that is out.

Mr. Chairman: That will necessitate bringing the official guardian and the public trustee back tomorrow, but I guess we could accommodate you.

Mr. Renwick: I could say we were half an hour late starting.

Mr. Chairman: It was actually 15 minutes, but we will not argue the point. Shall 1504 in its entirety carry?

Vote 1504 agreed to.

Mr. Chairman: We will reopen 1503 to accommodate Mr. Renwick.

Mr. Renwick: Would you mind?

Mr. Chairman: Not at all. Mr. Renwick: Thank you.

The committee adjourned at 1:06 p.m.

CONTENTS

Wednesday, October 17, 1984

Administrative services program	J-253
Guardian and trustee services program	J-272
Crown legal services program	
Adjournment	J-276

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)
Bryden, M. H. (Beaches-Woodbine NDP)
Kolyn, A.; Chairman (Lakeshore PC)
MacQuarrie, R. W. (Carleton East PC)
McMurtry Hon R R Attorney General

McMurtry, Hon. R. R., Attorney General (Eglinton PC)

Renwick, J. A. (Riverdale NDP)

From the Ministry of the Attorney General:

Campbell, A. G., Deputy Attorney General

Carter, G. H., Assistant Deputy Attorney General and Director, Courts Administration

Takach, J. D., Assistant Deputy Attorney General and Director, Criminal Law

Walker, H., Manager, Affirmative Action Program

Wright, B., Assistant Deputy Attorney General and Director, Civil Law





No. J-13

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General

Fourth Session, 32nd Parliament Thursday, October 18, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 18, 1984

The committee met at 4:22 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1503, guardian and trustee services program:

Mr. Chairman: Good afternoon, ladies and gentlemen. We are here to resume consideration of the estimates of the Attorney General. I believe we reverted to vote 1503, which has to do with the official guardian and public trustee. I believe Mr. Renwick has some questions.

Mr. Renwick: In the pressure of the number of things we are dealing with, I can only deal with certain aspects of the office of the official guardian, but I would like to touch upon them if I may.

What work I have been able to do or have had done on my behalf would indicate that some kind of examination is required to determine whether the office of the official guardian is achieving and performing all the roles it is required to perform. Those roles appear to have reflected an expanding ambit of authority.

This office is distinct, and in contrast with the office of the public trustee, it is almost the reverse situation with respect to revenues and expenditures, as far as I can tell. For the year ended March 31, 1983, the official guardian's office generated revenues of \$1,382,460 from fees for services. Actual expenditures for the same period amounted to \$4,355,253. The additional revenue to cover these expenditures comes in the form of an appropriation through the estimates process.

The one question I want to ask the minister is whether he would consider the appointment of a committee from within and without the official guardian's office for the purpose of reviewing the ambit of its authority and the responsibilities it has in order to see whether or not it is able to carry out effectively these duties and responsibilities.

For example, there is considerable uncertainty as to the appropriate role in connection with children. I know the official guardian has developed a statement which attempts to clarify that kind of problem, but there still appears to be immense confusion with respect to the role of the official guardian and the child who is a client of

the official guardian. Since the government is reviewing the whole of the legislation related to child welfare, I am not certain that this aspect of the responsibility is being effectively discharged.

I am not in a position to be precisely critical of the official guardian's office. That would, indeed, be the last thing I could do on any of the information I have received, but I would like to have a brief statement with respect to the child representation program.

On a topic which is very much in people's minds these days, child abuse, I would like to know whether or not any proceedings are being initiated through the official guardian or by the official guardian on behalf of any children with respect to recovering compensation. The question has come up time and time again about the role of the official guardian in investigating and reporting on courts concerning all of the questions relating to custody, maintenance, access and other orders which are issued.

That is about the ambit of what I want to inquire about at this time. Perhaps the minister would respond as to whether or not the time has come for a look at the office of the official guardian in a somewhat formal and objective sense; not excluding, of course, from within the office of the official guardian those who are knowledgeable about its affairs.

Would an internal committee with representation inside and outside from the ministry, the office of the official guardian and the public be of some use? Could we have some indication of the work which has been done by the official guardian in its representational role for individual children, which is a relatively new area of responsibility for the official guardian?

Hon. Mr. McMurtry: Thank you, Mr. Renwick. Mr. Chairman, Mr. Lloyd Perry, QC, has been the official guardian through most of my tenure as Attorney General. Mr. Perry will be retiring some time within the next several months, so I think this might be the appropriate time to make mention of his many years of distinguished service to the people of Ontario. I am sorry, I forget the precise number. Somehow 35 sticks in my mind; that may be, but we will ask Mr. Perry precisely.

4:30 p.m.

He has brought great distinction to that office in the years he has served it. I have become aware of this, not just through the reputation of the office in Ontario, but the reputation the office has gained outside of Ontario throughout the country and internationally. I think a good deal of the credit goes to Mr. Perry. I know all the members of the committee will join with me in wishing Mr. Perry every possible success in the event he is not with us when the estimates of the ministry are next reviewed.

Mr. Renwick: I was unaware that Mr. Perry was nearing the time of retirement and I certainly want to join in the tribute you have just paid him. I would also like to suggest that if a committee were to be established to look objectively at the office, it may well be that Mr. Perry could be back here next year in some capacity in connection with such a committee. It would seem to me to be a natural opportunity to have the benefit of his years of experience. While he is relieved of the duties of carrying out the office, he could contribute to an overview of the office in light of his experience. I think it would be most helpful.

Mr. Breithaupt: I, too, Mr. Chairman, would like to congratulate Mr. Perry on his years of service as official guardian. Certainly, any of the occasional experiences I have had with that office have always led to prompt resolution of problems and more than full explanations of the detailed situations that may have arisen and caused questions to be asked.

Mr Perry has developed and strengthened that office. I echo Mr. Renwick's comments that if some review of the principles and operations of the office is to be considered, Mr. Perry would be the perfect person to comment on possible changes, being removed at that point from the day-to-day administrative concerns. That may be a very happy use of an extremely talented person who is knowledgeable in a most particular area of our law. I hope that the idea does merit some further consideration.

Hon. Mr. McMurtry: Thank you very much, Mr. Breithaupt. The date when the new official guardian will be taking office has not yet been determined. I think any possibility of a review should await that decision and the opportunity for Mr. Perry's successor to review his own mandate.

It is important to stress that in the area of the official guardian, specifically in relation to child representation, there has been a committee on child representation. As I understand it, it is made up of people outside of the office, and they

have been very much involved with Mr. Perry and his colleagues in developing that office. As I say, a decision has not been made as to the successor, and I would prefer that his or her mandate should be more specific.

The issue of child representation is still in its developmental stage. Mr. Perry would be very pleased to give you his overview on the progress that has been made. It has been a very important program and one that has been developed entirely during Mr. Perry's tenure. It is a program that is not without some real complexities and some very difficult, complex issues with respect to the role of the counsel for the child, issues related to the instructing of counsel and issues that are well known to most committee members.

Mr. Perry has taken an important role in the whole issue of child abuse. It was to some extent due to my own and Mr. Perry's attendance at an international conference on child abuse that the Ontario Centre for the Prevention of Child Abuse was established in Toronto approximately one year ago.

Compensation for children who are victims of crime will be addressed by the chairman of the Criminal Injuries Compensation Board, Mr. Allan Grossman, when he appears tomorrow.

Perhaps this would be an appropriate time for Mr. Perry to provide us with an overview of the issues that have been raised.

Mr. Perry: Mr. Chairman, I thank the members of the committee for their observations with respect to my retirement after almost 35 very exciting years in this office. While I look forward to a change in my professional objectives, it is with considerable regret that I leave this office. I will miss the opportunity to share from time to time experiences with this particular group.

With respect to the independent representation program, since its implementation in 1982 we have provided legal representation for children in child welfare matters in more than 14,000 cases. We have been able to achieve this service to a large number of children in the province because of the very dedicated support we have had from some 500 members of the private bar who have provided this service in conjunction with a number of in-house counsel and very carefully selected law students who have assisted in the program.

This program has many problems because when one deals with 500 lawyers of the private bar who are not responsible to you other than through a loose-knit arrangement whereby they accept assignments by becoming members of

panels, there are obvious problems in our efforts to maintain a high degree of competence. However, with the assistance of local committees, particularly the one in York county, which comprises a family court judge, lawyers from the children's aid societies and the private bar, we have been able to satisfy the courts and ourselves that a very viable and responsible program is in operation.

We also have another representation program that is very important and effective, and that is the representation of children in custody and access cases. We handle this program primarily through counsel in our own operation. This program has proved to be extremely effective and certainly has contributed substantially to the resolution of these very difficult and often complex custody and access issues.

Unless there are some questions that members of the committee may have with respect to representation, that is all I propose to say at the present time, other than that we do have an ongoing procedure and technique to constantly evaluate the effectiveness of that program.

4:40 p.m.

Mr. Renwick: Mr. Chairman, perhaps Mr. Perry would let us have a copy of what he called the role statement that has been prepared in his office on this vexed question of the representation of children.

Mr. Perry: We do a regular analysis of that program. It shows the kinds of cases we deal with. It deals with many statistical responses to aspects of the program. That might be very helpful to you; if it is, I am sure we can file it.

Mr. Renwick: That would be helpful. That whole question of representation of children has so many variables in it. There has been so much discussion about what counsel's role is in representing children of varying ages in the course of the representation issue. Then you involve, as you necessarily must in a province this large, upwards of, as I think you said, 500 members of the private bar in various aspects of it.

It would seem to me that within the next year might well be a good time to have in some way the benefit of all that accumulated experience, since this role has been expanding up to the present time. We could see where we now stand on the way in which that diverse number of people represent children in the various courts and whether there is any way of sharing the experience and the understanding, and of clarifying the immense number of variables in the role.

Mr. Perry: As the Attorney General indicated, this entire program of providing legal representation, which means lawyers for children in child welfare matters, is still in an evolutionary stage. Outside of the people who are dealing with the problem directly, there are many philosophical questions with respect to how one represents a child, having regard to such things as the child's age. However, for those who are actually doing the job of providing this service for children, those problems become quite theoretical.

It is really sound, in my judgement, not to set too many guidelines with respect to the philosophical aspects of representing children, because you have to look at each case on its own merits. The strategy, the technique, the philosophy or the role of the lawyer for a child in one child welfare case likely will not be the same as in some others. We find it rather frustrating when we see the effect of philosophical considerations as against what actually happens in practice. We are, however, in a position to make some helpful, I hope, observations with respect to those matters.

Mr. Renwick: I would hope so. I would hope also that we would not state it quite in terms of the practical as against the theoretical as though there was not a great deal of value in sharing the experience of those who are on the front line dealing with the individual cases as they come along.

I say that not from any particular knowledge of my own, because it would be very unreal, and indeed it is with some diffidence that I raise the question, but when I find that George Thompson as late as October 1983 was concerned about the need to eliminate role confusion in the child's lawyer, that raised some very important questions about the Ontario experience.

This is obviously not a time for argumentation, but I did want to say that this is an important sense of what I believe from the work I have had made available to me. It is part of why I recommend that there should be an overview of the office.

As I am diffident about questioning you, you may be diffident in the presence of the Attorney General in expressing your view, but do you think there would be value in a committee being put together, from within your own office, from within the ministry, from members of the bar and perhaps from members outside, for the purpose of looking at the office as such?

Mr. Perry: Any office is bound to benefit from reviews, regular or otherwise. All I can say

in response to your question is that we have an internal process now to regularly review what is occurring. We also have the benefit of the local committee, as I indicated, which meets on a monthly basis. It is an excellent committee, and its members look at varying aspects of the representation program. Then we have the benefit of the policy division in our own ministry, with whom we confer whenever there is a need for it, and that happens regularly.

There are a number of review processes in existence now. However, to have someone meet with the people who are doing these reviews

might be very helpful.

The Vice-Chairman: I was just wondering, before we get too deeply into the potential establishment of this committee, whether we could conclude with the area of representation of children. I was wondering whether the committee members have any questions they want to direct to Mr. Perry on that.

If not, do you want to continue with your proposed committee, Mr. Renwick?

Mr. Renwick: I am not certain whether I do, Mr. Chairman. I guess what I have to ask, in the light of my ignorance, is what can I look at that will tell me in readable terms, in a format available without me becoming an expert in it, what the office of the official guardian does? Are there any recent, current, up-to-date articles dealing with the role of that office? I do not think it is adequate to have the response that continual internal review is being done, when there is still what I take to be a need to stand back and look at that office.

You may be able to allay my concern by referring me to current overviews or studies that have been done. Until that is done, I guess I will just have to find the time to pursue the matter on my own.

Mr. Perry: We do have a number of documents in the office dealing with the jurisdictional responsibility of the office in general. Last year, we prepared four articles for the Ontario Medical Association, so another profession would have a better overview of the office. We do have a number of papers and documents which we would be prepared to make available to you if directed to do so.

Mr. Renwick: That would be sufficient for my purposes. Please do not swamp me with them, but I would like to have the best kinds of documents that would meet the concerns which I am trying in a very inadequate way to express about the office. Then I can decide one way or another whether we have a very clear understand-

ing of that office. I would appreciate that very much.

Mr. Chairman: Are there any further questions of the witness? If not, thank you very much, gentlemen. Possibly we can move on to the next item.

Mr. Breithaupt: Yes, we can, Mr. Chairman, as far as I am concerned.

Mr. Renwick: Is it the public trustee?

Mr. Chairman: Yes, the public trustee. 4:50 p.m.

Hon. Mr. McMurtry: Mr. Chairman, this is Mr. Brock Grant, who is the director of common legal services for the ministry, in the absence of the public trustee and his deputy, who regrettably are away. We also have Mr. Richard Lush, who is chief accountant of the office of the public trustee.

Mr. Renwick: I have two or three questions I would like to ask. The latest report I have is for the year ended March 31, 1983. Is there a 1984 report as yet?

Mr. Lush: Not available.

Mr. Renwick: Each year the surplus continues to go up. There have been occasions where we were told that it would be levelling off. Now 1983 over 1982 is about \$5 million and 1982 over 1981 was about \$5 million. What will 1984 over 1983 be?

Mr. Lush: I think you are going to get a surprise; it is \$16 million.

Mr. Renwick: An increase?

Mr. Lush: No, a decrease. The surplus is now \$16.9 million, and that is as a result of transferring \$12.45 million to the consolidated revenue fund.

Mr. Renwick: I do not understand accounting. If there had been no transfer to the consolidated revenue fund and you had reported the statement of surplus on the same basis as 1983, what would the surplus be at the end of 1984?

Mr. Lush: Approximately \$27 million, had there been no transfer.

Mr. Renwick: So it would have gone up some?

Mr. Lush: That is correct.

Mr. Renwick: Almost \$3 million again this past year?

Mr. Lush: About \$4 million, actually.

Mr. Renwick: That is one of the concerns which has been expressed, the extent and degree to which that office should be operating on a

continuing surplus without carefully looking at the office from the point of view of relieving the burden on the estates administered by the office from the fee point of view. That concern has been expressed, as the Attorney General knows, for the past few years.

Mr. Lush: I am sure the Attorney General has been informed through the public trustee's advisory committee that the excess of revenue over expenditure is not derived at the benefit of the patient or client estates we administer. It is made on the moneys in the surplus account, which as you say was about \$24 million in 1982-83, plus moneys that we have to hold for about 10 years in an escheats account and in the crown accounts, whereby we only allow three per cent interest on the estates.

The rest of the categories of accounts we look after, which are the Mental Health Act accounts—special trust accounts such as mental incompetency—are money-losers. We are making money on moneys that we are holding either for the consolidated revenue fund or for payment to the ministry or to the Treasurer of Ontario.

Mr. Breithaupt: These are moneys over which you have no opportunity except to hold them pursuant to—

Mr. Lush: An order in council being issued.

Mr. Breithaupt: -a variety of orders.

Mr. Lush: That is correct.

Mr. Breithaupt: You could not do anything with them if you wanted to.

Mr. Lush: We cannot, not without those orders.

Mr. Renwick: You mean there is no free surplus in the office of the public trustee that would be available to be applied for the purpose of taking into account reduction of fees for services to estates?

Mr. Lush: Not as the rules and regulations are at the present time.

Mr. Breithaupt: The surplus is developed quite separately from any of the ongoing estate situations?

Mr. Lush: That is correct.

Mr. Breithaupt: Even though it appears on one statement, clearly it comes from an entirely separate base that cannot allow mingling in any way. That is what I understood.

Mr. Renwick: Is it possible that I could have a statement explaining to me the composition of the surplus and its relation to fees collected which would support the proposition that there are no funds available in the office of the public trustee

that would permit the fees to the patients' estates and to other estates in your administration to be reduced?

Mr. Lush: In essence that is correct. If we reduce our fees and if, let us say, the whole of the surplus was transferred over to the consolidated revenue fund, it would have two effects. One would be to substantially reduce the amount of interest allowed on the individual trusts. That is a very sensitive area.

The second point is that the public trustee would operate at a deficit, for which the province would have to reimburse us. We are now, as you are aware, wholly self-sustaining. We pay every cent of our appropriation.

Mr. Renwick: Yes, I understand that. You are a separate corporation.

Mr. Lush: All I am saying is that if we take away these extensive pools of money which do not relate to our clients, we would operate at a deficit.

Mr. Breithaupt: It appears to be easier for you to maintain the responsibility for those pools of money, as you referred to them, simply not to have money transferred back from the consolidated revenue fund at the end of the day.

Mr. Lush: From our point of view, that is right. I think it is perhaps a political matter.

Mr. Breithaupt: It appears to be a practical way of dealing.

Mr. Lush: It is very practical. This is a matter that is continually dealt with by the public trustee's advisory committee. I believe we have the full consent of the committee to operate on that basis. I think Mr. Fram would bear me out on that.

Mr. Renwick: My second question is, could we have a progress or status report from your committee, sir, regarding the estates of incompetent persons? How far along is that? Mr. Fram was good enough in August to send on to me the names of the various members of that committee, as well as those who are consultants to the committee. I would appreciate it if you would let me know whether the committee is in operation, what its program is and what its plans are. There are some very serious questions raised by various people about that question of treating the estates of incompetent persons.

Hon. Mr. McMurtry: Mr. Fram is in the policy development division. We have Mr. Douglas Ewart, the director of policy development, here. Mr. Ewart can bring us up to date. I know this committee has been meeting for the

past five or six weeks. Would you address that, please, Mr. Ewart.

Mr. Ewart: That is right. The committee has been meeting every Tuesday night for six weeks. Reports to me are that it is going much more quickly than people anticipated. There is substantial agreement among all the people on the committee. As you know from your list, it is a pretty broadly representative group. I do not have a target date for when they will have a report, but I am told it is moving very quickly and very well and there is a very substantial degree of unanimity on the issues.

Mr. Renwick: Have they resolved the areas of concern that they were looking at? Is it reduced in any way to what they consider their own terms of reference as to what they are supposed to be doing?

Mr. Ewart: As I understand it, they have an agenda before them and they are achieving broad consensus on the issues. I cannot tell you whether some issues were put to rest; a lot of them were linked together. All members of the committee are pleased with the progress to date.

Mr. Renwick: I would agree with you that when I saw the list my major concerns were allayed. It is a very broadly representative committee and certainly has a number of people on it who do represent the various areas of concern that led to its appointment.

Would we be looking towards the end of this year, a year from now or six months from now? What will we be looking at in terms of a report?

Mr. Ewart: I am told it will be less than a year from now, whether it is the end of this year or early next year. I would guess within, say, the next six months that part of it should be finished.

Mr. Renwick: Thank you very much.

The last matter: the public trustee and the deputy are not here, but I would appreciate it if some response was made about the relatively dramatic articles which appear from time to time about the way in which the public trustee's office deals with members of the public.

There was one which was widely quoted in the Gravenhurst newspaper last January, and I think it was repeated in a couple of other newspapers. It was about an investigator who drove up to Toronto and after flashing his credentials, asked the wife to hand over the deed to the house, the will and the bank book and so on. Without stopping to fill out receipts, the investigator got into his car and drove away.

I could not credit it when I saw it, but I was surprised that I did not see any response by the public trustee's office to explain the incident. I may have missed it. Are you aware of that situation?

Mr. Grant: Yes, I am aware of the article of which you speak.

Mr. Breithaupt: Perhaps you could explain the situation from the public trustee's point of view then, if you would.

Mr. Grant: I think the best way to address it is that it was an overdramatization of what actually happened. At that time, I recall the Attorney General received several letters from the public inquiring about the article and the method by which the office of the public trustee carries out its operations, particularly in relation to these kinds of activities, such as investigators going in.

I passed the material on to Mr. McComiskey, the public trustee, and made appropriate inquiries. I was satisfied, from the inquiries that he, in turn, made of his staff, that things were not as they were represented in the newspaper article. The people in question were treated with respect and dignity. It really was not that way at all.

Unfortunately, I do not have my file here so I am rather vague on the facts of the situation now. It happened some nine months ago.

Mr. Renwick: I do not want to delay you or ask you to extemporize on it. I would appreciate it if I could have whatever response can be made to that particular article. I think it is very poor for the public to have the kind of impression that article creates. If there is a legitimate response to it, I would be interested in seeing it as well.

Mr. Breithaupt: Was there a reply made to the newspaper or a letter to the editor written by the public trustee with the prospect of having the balance redressed as you saw the apparent need to do, or was simply nothing done in reply?

Mr. Grant: No, I think what occurred, if my memory serves me correctly, was rather than take the approach of writing to the editor, the letters were written to the husband in question. I think it was the wife who was incompetent. We are dealing with the wife's estate and it was the husband who was apparently encountering the difficulties. Whoever wrote us about it received responses to what, in fact, really did happen.

It is a given fact that when the public trustee deals with 18,000 estates, we will receive criticism from time to time. We receive criticism from the public as to the operation of the office of the public trustee, with respect to how it goes

about doing its activities on a day-to-day basis, as well as the responses people get when they are dealing with the people who handle those estates

in the public trustee's office per se.

When the public trustee is called in to deal with these matters—I think it is under the Mental Health Act that the public trustee has authority and is required by law to assume responsibility for a mental incompetent's estate—it is a very difficult time for the family. As a result the public trustee sometimes appears to be interfering with private matters involving the family, and that the family takes objection to. The public trustee has a mandate and must fulfil that mandate.

Mr. Chairman: Mr. Grant, how long would it take from the date of the article to have that type of investigation? Would it take you weeks or months to satisfy yourself that everything was proper?

Mr. Grant: As soon as it came to my attention it would be directed immediately to Mr. McComiskey and he would be back to me virtually within the week. A report goes to the minister, as well as letters for the minister's signature.

Mr. Chairman: So it is not your policy to write newspaper articles, to make rebuttals or anything of that sort?

Mr. Grant: Not that I am aware of, no.

Mr. Breithaupt: I can see that that is quite appropriate. I was only inquiring as to whether it occurred.

The responsibility is clearly to deal with the family members who may be involved and not attempt to get into some sort of contest in the public print. I think it would be inappropriate since it is a matter of privacy and confidentiality. I am pleased to hear that the responses were attended to so promptly.

How many of these misunderstandings would occur? Would you have several of these a month to be sorted out, reviewed or considered, or

would it be fewer than that?

Mr. Grant: Mr. Breithaupt, I would suggest only a very few in a year. The Powers of Attorney Act has been changed in regard to individuals who contract Alzheimer's disease and lose their capacity. Prior to the changes in the Powers of Attorney Act, when they lost their mental capacity, the power of attorney they had prepared prior to losing their capacity was also lost, and the public trustee had to take over responsibility for those assets. Now that has been addressed—

Mr. Breithaupt: As a matter of interest, what number of persons would have been in that particular situation, if you recall generally?

Mr. Grant: I am afraid I cannot.

Mr. Breithaupt: I just wondered-

Mr. Grant: It was significant enough that the association that represented Alzheimer victims in the public interest felt it was something that needed to be addressed in the law and it was. A lot of the criticism that has been directed to the public trustee in relation to those kinds of matters is now dissipated because of that.

Mr. Lush: Could I comment, Mr. Chairman? There have been about a half a dozen cases reported directly to the public trustee over the past year.

5:10 p.m.

Mr. Breithaupt: But with the development of the apparent prominence of this disease, it could be an increasing concern. Surely the change in the law was quite welcome. It is interesting that the number would be that small. I would have thought it might well have been a larger number.

Mr. Lush: They happen to be sensitive cases. As you know the society has a fairly high profile and is quite aggressive in its approach; rightly so.

Mr. Renwick: Could I expect then at some point to get a response on that particular Gravenhurst situation, because it was a matter of concern at the time?

The other matters related to the bills we passed in the assembly–Bills 132 and 133 a year ago-dealing with the powers of attorney. These are matters, obviously, which can wait until the committee reports. I need not pursue those at this time.

My own impression of the public trustee's office is that it needs to spend money on public relations. There is a great deal of misunderstanding and criticism of the office which appears to be unjustified. We seldom hear of any satisfied clients of the office.

I do not pretend to be on your side of the fence—I am not—but something needs to be done to explain the role of the office to the public. Perhaps this is being done and I am not aware of it.

Mr. Lush: Our executive officers, our more articulate investigation staff, the public trustee himself and others are sent to psychiatric hospitals and organizations such as the Alzheimer's association to apprise them of the functions of the public trustee's office. They explain that this is not a government agency sent to appropriate their assets, but is in fact there to help during times of difficulty.

This practice has been going on throughout my 25 years in the office. I think we have a

reasonably good public relations program. Of course, it could be expanded, if we had the funds necessary to do so.

Mr. Grant: The public trustee's office has published a brochure that has been widely distributed. Written with the lay person in mind, it is both informative and understandable

Mr. Renwick: Put me on the list, would you?

Mr. Grant: Certainly. It is not a long document, but it clearly sets out the mandate of the trustee and explains how the public can gain access to the services offered by the office.

Mr. Renwick: Perhaps you could include an explanation of the composition and nature of the office's surplus. It is a item of constant criticism and public conjecture is that your office makes profits at the expense of poor people's estates.

I think it is important that your auditors provide a public accounting of the composition of this surplus, explaining where it comes from, and pointing out that the surplus is not a result of fees being charged by your office.

Mr. Breithaupt: It would clarify matters if you were to explain to the public what you have told us this afternoon. We could then refer anyone who asks a question to that particular source.

Mr. Chairman: Anything further, Mr. Renwick?

Mr. Renwick: No, thank you.

Mr. Chairman: Are there any further questions on vote 1503? Shall vote 1503 carry in its entirety?

Vote 1503 agreed to.

Mr. Chairman: I believe we passed vote 1504

On vote 1505, legislative counsel services program:

Mr. Breithaupt: Mr. Chairman, we have the opportunity to spend several minutes on this vote and I think this year it is as appropriate as it has been in years past to congratulate the legislative counsel for the services provided to the Legislature. The manner and style in which the confidence of members' requests is kept and the speed with which they are dealt continue to reach new heights.

Clearly this operation, really in direct support of what we do here as well as in the assistance of drafting and other responsibilities for the variety of government departments that call upon these services, is something of which we should be quite proud. We should be prepared to give credit to the manner in which these tasks are met by the staff members of this branch.

Mr. Renwick: Mr. Chairman, I have a couple of matters. I do regret, Mr. Stone, that I was unable to attend the farewell reception for Bill Anderson last Friday afternoon. I had planned to attend and had expected to be able, but it was just not possible.

I think we should record that so far as I am aware, he was the first registrar of regulations in Ontario. Is that correct?

Mr. Stone: No, Mr. Renwick. Ontario was the first jurisdiction to have a Regulations Act and a system of taking public documents and publishing all the regulations. That came in in 1944. The first registrar was Bob Wherry and then myself in 1955. Bill Anderson succeeded me in 1964.

Mr. Renwick: I thought he had been around for so long that—

Mr. Stone: He was there from 1964 to 1984.

Mr. Breithaupt: As you know, 20 years is a reasonable amount of time.

Mr. Renwick: Particularly when you are dealing with regulations.

Mr. Stone: Twenty years is half the life of the Ontario system.

Mr. Renwick: I hope you will convey to him on behalf of the committee our very best wishes on his retirement and our appreciation of the services he rendered in that job, which requires a great deal of meticulous care and attention.

Mr. Stone: I will do that, Mr. Renwick and Mr. Breithaupt.

Mr. Renwick: It is interesting that in all the years we have been around here, I do not think the standing committee on regulations and other statutory instruments has ever been able to come up with what could be called a basic, fundamental, serious dereliction in the drafting of the regulations. There have been odd points from time to time that required clarification, but I think that in itself is a tribute to a job well done.

5:20 p.m.

Mr. Williams: If I might, just before you leave that topic: I went to Bill Anderson's retirement. It is most unfortunate Mr. Renwick was not able to be there. It was a most moving ceremony, obviously reflecting the high esteem in which Mr. Anderson is held.

So many people were there to extend their congratulations to Bill Anderson and there were so many compliments about the quality of his work and service over the years, which was simply a reflection of the quality of the man himself. There were so many fine tributes paid to Bill. Some members of the Legislature who were able to be there were able to contribute modestly in this respect.

I hope you received a copy of Bill 1, which really should have been read into the record of the Legislature. It simply was designated as the Bill Anderson Act, I believe, and highlighted the accomplishments of this dedicated civil servant over the years—with a bit of tongue-in-cheek and a little fun, of course. If they have not received copies of that bill, I think a copy should be circulated to all members of the Legislature.

In a very fun way, it highlighted his success and accomplishments, and what his service has done for the legislative process in this province. I was pleased to be there, along with many well-wishers, to send Bill happily on his way to his retirement although, as he expressed it to us, it was with some mixed feelings that he was leaving for a quieter life.

He will be sorely missed by all, as you have both indicated. He was a great tower of strength to those of us who served over the years on the standing committee on regulations and other statutory instruments.

I said on that occasion, and I repeat today for the record, that I do not think there is any governmental jurisdiction anywhere on the continent that has reached the point of refinement that we have in Ontario with regard to secondary legislation and the regulatory process, thanks in large measure to Bill Anderson; and of course to his predecessors Arthur Stone and Robert Wherry as well, but I think no one will mind me suggesting Bill Anderson in particular. I am pleased we have had an opportunity to recognize Bill again in this way in committee today.

Mr. Renwick: Who holds the office now?

Mr. Stone: Sidney Tucker, QC, of my office has been appointed registrar of regulations.

Mr. Renwick: I appreciate the work of the office of the legislative counsel. Mr. Stone always comes before us to receive his compliments and so on. However, on Bill 65 and the question of excessive jurisdiction, which is all gobbledegook to me, I consulted quickly with legislative counsel and with the policy division on the meaning of excessive jurisdiction in Bill 65. I got almost instantaneous responses and so on.

Then, to my chagrin, no one in the caucus asked me what excessive jurisdiction was, which was the reason I made the inquiries in the first place. Second, I was away when the bill was

called in the assembly, so I could not use all the erudite material I had in connection with it. However, I did appreciate receiving it.

Mr. Chairman: I guess you cannot win them all.

Mr. Renwick: I have two items. I would like to ask that, instead of trying myself to extract from the Queen's Printer or anyone else the annual table that is prepared of the ministry's responsibilities with respect to all the statutes, I would appreciate it if your office would send us our copies when that is prepared each year so that we will all have it. It is a most valuable document.

The second item is that you usually give us at some point an up-to-date list of the statutes of the province that have been translated into the French language.

At some appropriate time, I assume we can have updated statements of those two matters, because basically the only way we can tell what the ministries do is if we know what their statutes are. I do not believe I have as yet a 1984 copy of that. I think it is called "Reponsibilities of Ministries for Statutes" or some such thing.

Mr. Chairman: If there are no further questions for Mr. Stone, thank you very much.

Hon. Mr. McMurtry: Thank you, Mr. Stone. Your annual appearance here always seems to provoke very understandable comments of praise and approval, and I would like to join in that annual chorus, which is so deserved.

Those of us who are elected politicians are a little bit envious at the same time, I must admit.

Mr. Chairman: Shall vote 1505 carry in its entirety?

Vote 1505 agreed to.

On vote 1506, courts administration program:

Mr. Breithaupt: Mr. Chairman, with respect to vote 1506, may I have the committee's indulgence in bringing before it a most disturbing article in today's Toronto Star headlined, "Spadina Store Sells Books Denying the Holocaust."

Members of the committee will recall that some 14 pages of the Attorney General's 33-page opening statement dealt with this theme. There is no question that the Attorney General is most interested in this whole issue, having highlighted it as the major area of commentary in his prepared remarks.

I know he will be as amazed as I was to see this article and to recognize that these matters are being discussed in publications available in our community.

As we celebrate the bicentennial of Ontario, we all recognize that while Governor Simcoe sat on his horse, a group of German immigrants cleared Yonge Street. My own family roots in Canada go back 150 years. Those of us of German background, which is, I believe, the third largest group in Canada after the French and English, are most disturbed to see this kind of material being published again.

I am sure the Attorney General is every bit as astounded as I am to see these matters once again before us and I would welcome his comments. He may not have actually seen the clipping. What can we expect to develop from this?

Hon. Mr. McMurtry: I had not seen the clipping. We have H squad, a Metro provincial squad which, together with our crown law office, reviews any material that comes into the police hands that may possibly infringe the provisions of the Criminal Code.

5:30 p.m.

I do not know if our group has reviewed any of these books, but perhaps there is something on file. These books, according to the news report, would appear to go somewhat beyond a mere—I do not like to use the word "mere"—straight denial of the holocaust. According to this article, these books allege that there is a Jewish plot to control the world.

I will give an undertaking to the committee to meet with my crown law officers as soon as practical to discuss what investigation may have taken place with regard to the distribution of these books.

Mr. Breithaupt: Yes. It may be a bit rushed, particularly if you have not seen the clipping. Perhaps we can expect your comment in due course, whether it is a statement in the House or some public comment, to show the results that may well flow from your examination of what is raised in the article.

Mr. Renwick: I think that article poses a most difficult problem. I have only glanced at it. I suppose it is what I would refer to as the sophisticated purveying of falsehood disguised as scholarship.

Mr. Breithaupt: Or disguised as religion.

Mr. Renwick: It raises very difficult questions about whether we can rely on truth to have its day and to defeat falsehood in the field. I do not know whether that is so. I think we are going to see more and more of that sophistication brought to purvey falsehood, disguised in a scholarly cloak of one kind or another.

Hon. Mr. McMurtry: You are quite right. As will be discussed in other cases, it is a terribly complex area. Again, it may be described as very objectionable material that is intended to create animosity but which does not necessarily breach the Criminal Code in its present state. That is a very difficult concept to explain publicly. We have to deal with it as best we can.

I would also like to express my personal revulsion for people who are distributing this material. In my view, they are clearly motivated by reasons that are clearly unacceptable so far as their desire to create, at the very least, tension and animosity in the community.

Having said that, the difficulty is whether or not there is a provable case of a criminal offence having been committed. However, I have no hesitation in expressing our strong displeasure towards people who engage in what I regard as an irresponsible, at the very least, and clearly an antisocial activity which does have the capacity to do damage to the relatively fragile social fabric that is the pluralistic society in our province.

Mr. Renwick: Before we go on, there were two items to which the Attorney General was going to respond. One was with respect to the process change under the Lieutenant Governor's warrants, which is of concern; the second was to be a response about the question of the handicapped in the administration of justice arising out of the Abella report and the recommendations it makes. If those are available, it would be interesting to have them at this point; if not, then tomorrow.

Mr. Chairman: Before you start I would like to draw your attention to the clock. I think we would like to leave in about 15 minutes; we have a private members' vote. Perhaps you could tailor it to whichever is the shorter.

Mr. Renwick: Or do both.

Mr. Chairman: Or do both if you can.

Mr. Breithaupt: Yes, I am quite content to have those statements that are the most important go on the record.

Mr. Renwick: Then we could deal with the courts, starting tomorrow morning.

Mr. Breithaupt: We could do that quite satisfactorily tomorrow then, dealing with any other issues under the vote.

Hon. Mr. McMurtry: Perhaps we might start with the summary of the status report on the implementation of the Abella report. I will give an overview and then turn again to Mr. Ewart, who, as director of policy development in the

ministry, has responsibility for the policy development as a result of this report.

First, after the report, the following ministries and organizations were consulted directly: the Ministry of Health, the Ministry of Community and Social Services, the Law Society of Upper Canada, the director of the Ontario legal aid plan and the law deans of all our law schools throughout Ontario.

We have received briefs from the Ministry of Health, the Ministry of Community and Social Services, the Law Society of Upper Canada, the director of the Ontario legal aid plan-again, through the law society-deans of the Ontario law schools and the community clinic that deals specifically with handicapped persons. This is the Advocacy Resource Centre for the Handicapped, which submitted the last major brief on June 25, 1984. We are also awaiting a brief from the March of Dimes, as it has indicated its desire to submit a brief. To date, we have not received such a brief.

What we have done to date in direct response to this important report, apart from what I have already stated, is as follows. The legal aid financial means test has been revised to take into account the necessary expenditures of the handicapped. Legal aid applications are now being accepted by telephone to assist the handicapped. We have established a special number to give the hearing impaired greater access to the ministry. **5:40 p.m.**

I was interested to see in recent weeks that in the elevators at 18 King Street East, where you push the number of the floor, we now have a Braille panel, which I must admit is the first one I have seen for elevators.

We have put some family law and small claims court law on cassettes for greater access by the handicapped. We are reviewing legislation dealing with the mentally disabled and the role of the public trustee. We are working on our policy admission and class action reform, which relates to recommendations in the Abella report.

As a result of the Abella report, or at least to a great extent because of the report, approximately 30 legal clinics and approximately one half of the legal aid offices are now wheelchair accessible. When new premises are sought, an attempt is made to accommodate the needs of the disabled.

Thirteen legal aid clinics now have outreach programs for the institutionalized and the possibility of further outreach programs has been discussed at the clinics by the clinic funding committee. Ontario law schools have shown support for the recommendation that problems

involving the needs of the handicapped be integrated into existing courses.

One of the major outstanding issues, as I may have indicated before publicly, is the creation of the office of legal services and research for the disabled. That is under active review and obviously has important funding implications.

Perhaps Mr. Ewart would like to add something to my brief overview.

Mr. Ewart: I think what the Attorney General has said pretty well covers the ground in terms of what we have been doing. We have been working actively, particulary with the Advocacy Resource Centre for the Handicapped. I talk to David Baker regularly about it. I have been up to meet with their board.

Obviously, we allowed a fairly extensive period of time for consultation once we received the report. We did not get the full brief from ARCH, which has been a major player in this, until June 25. While it may seem that some time has passed since we got that report, getting the brief from ARCH was a key element in our work.

We did meet over the summer with them. We have continued to work with the other ministries and agencies to which recommendations are made. As you know, most of the recommendations in the report are made to somebody else, whether it is the law schools, the law society or the Ministry of Health.

We have made good progress on the ones directed to us on which we could take short-term action. We have been encouraging the other people to whom recommendations were made to do the same and we are, as the Attorney General said, actively reviewing the concept of an office of legal services for the disabled. We have met with ARCH on that and both ARCH and the ministry are actively exploring some perhaps less involved models than those set out on that report. That process continues to this day.

Mr. Renwick: I do not know whether it is ever possible simply to take the list of recommendations in a report such as that and answer each of the ones in any way that is meaningful, but I think what I can do, in the light of your comments, is have a look at the report again and if I have some specific questions related to it, I will ask them.

I am very interested in one specific matter. There was, if it relates to the same question of disabled persons, the coming into effect of the amendment to the Mental Health Act which provides specifically that notice be given to the office of the director of legal aid on the question of a person being entitled to a hearing, so that there is some person outside who knows that a

person is going to have a hearing with respect to involuntary detention in the way in which this place operates.

That amendment was passed some years ago and was then proclaimed. I have written to try to get some indication of what the process is going to be by which it is going to be implemented and I have never had a response to that correspondence. As usual, I could not find the correspondence, but I know you are aware of what the problem is. Perhaps you could tell me what the legal aid plan intends to do to implement the intention of that section of the Mental Health Act?

Mr. Ewart: I think they took the position that receipt of that notification did not require them to take any outreach activity, but simply put them on notice that they might be getting an application; that was also the decision taken by the legal aid committee. We have had some discussions with them about that. To the best of my knowledge, that remains their position.

Mr. Renwick: That was not the intention when it was passed. I do not know whether the debates are available of that particular amendment.

I am not suggesting for a moment it was as elegant as it could have been with respect to what it says, but the intention of that amendment was, very clearly, that if a person in involuntary detention is notified of a hearing, a copy of that has to go to the director of legal aid. The intention is that the area director of legal aid would make certain that the person was represented at the hearing if the person wished to be represented and that the person understood the nature of the hearing that was to be held.

I know it does not say that, but the debate of the assembly will clearly show what the intention was at that time. I believe it is of immense importance that the intention of the assembly be carried out with respect to that particular section of the Mental Health Act.

It was for that reason the area director was to get a copy, to provide some method by which duty counsel or someone was to contact that person, make certain the person understood what his rights were with respect to the hearing and his involuntary detention and that, if necessary, representation would be arranged for him.

I do not think any member of the committee who sat on those amendments three, four or five years ago now would not confirm what the intention of the assembly was. I would appreciate it if that could be looked at and a response given on that matter.

Mr. Chairman: Mr. Renwick, could we pause where you stopped and continue tomorrow morning?

Mr. MacQuarrie: Are we going to conclude the vote today on this matter?

Mr. Chairman: No, I do not think so.

Mr. Breithaupt: We were a bit late in starting today, but I am quite content. We just have the two remaining votes, 1506 and 1507. We can spend some time on them because we particularly want to hear from the Attorney General on the Lieutenant Governor's warrants matter. Perhaps we could do that tomorrow morning, then pass the vote and deal with Mr. Renwick's question.

Mr. Chairman: We are on 1506, but we do not have to pass it. We are just talking about it.

Mr. Renwick: I do not want to pass it. I have a number of items.

Mr. Chairman: That is right. You have a number of other questions.

Hon. Mr. McMurtry: Can we have one brief comment from the Deputy Attorney General? 5:50 p.m.

Mr. Campbell: On the matter of the amendment to the Mental Health Act, in the view of the ministry that issue is very important as well. We have been speaking to the Ministry of Health about it. They are also interested in an early resolution to the matter. It is also an issue in which the Ombudsman is taking a very direct and very personal interest. As a result of the Ombudsman's concerns, we have started consultations with the law society to see whether the matter can be resolved. There may be some concern in the law society or in the legal aid plan about the actual form of the amendment.

We are not satisfied at this stage that any legislative amendment is necessary. In our view, it is something that can be done administratively and the spirit of the intention of the legislation can be carried out after the appropriate administrative mechanisms are put in place with the Ministry of Health.

The law society and the legal aid plan really do have some concerns about it and, after discussing it with the Ministry of Health and the Ombudsman, we are seeking to have discussions with the law society and the legal aid plan to see whether we can make it happen without necessarily going too deeply into the form of the present wording of the legislation, or whether it could say something else.

Mr. Renwick: I have a personal interest. I scribbled out that amendment in pencil one day

up there. It was an attempt to express what we wanted to accomplish and the mood of the committee. The then Minister of Health was not terribly receptive to anything. I was actually surprised when it was finally proclaimed under the present minister.

I think the intention is clear and I think it is a point which should be dealt with within the spirit of the intention if it is at all possible, rather than getting involved in the legislative process.

Mr. Campbell: The intention is clear to me. Although the statute does not impose on the area director or upon the legal aid plan an express statutory duty to do anything, the Legislature's intention was obvious from the entire context of the amendment and the way in which it was advanced. In our view, there is no need for an amendment to authorize the expenditure of public funds on that program. I guess the legal

aid plan still has some legal concerns about it and I hope we can straighten those out with the plan before too long.

Mr. Renwick: Perhaps the Attorney General could answer just one other question.

Mr. Chairman: The bells are ringing, Mr. Renwick.

Mr. Renwick: That is all right. There is no vote at issue.

Mr. Chairman: Yes, there may be, sir.

Mr. Renwick: Are you going to introduce the Justices of the Peace Act this fall or not?

Hon. Mr. McMurtry: I hope so.

Mr. Chairman: With that we will bring this meeting to a close until tomorrow morning after question period.

The committee adjourned at 5:52 p.m.

CONTENTS

Thursday, October 18, 1984

Guardian and trustee services program	J-281
Legislative counsel services program	J-288
Courts administration program	J-289
Adjournment	J-293

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)
Kolyn, A.; Chairman (Lakeshore PC)
MacQuarrie, R. W.; Vice-Chairman (Carleton East PC)
McMurtry, Hon. R. R., Attorney General (Eglinton PC)
Renwick, J. A. (Riverdale NDP)
Williams, J. R. (Oriole PC)

From the Ministry of the Attorney General:

Campbell, A. G., Deputy Attorney General Ewart, J. D., Director, Policy Development Division Grant, B., Executive Co-ordinator, Legal Services Branch Lush, R., Chief Accountant, Office of the Public Trustee Perry, L. W., Official Guardian Stone, A., Senior Legislative Counsel



No. J-14

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General

Fourth Session, 32nd Parliament

Friday, October 19, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, October 19, 1984

The committee met at 10:28 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1506, courts administration program:

Mr. Chairman: Good morning, ladies and gentlemen. I see the Attorney General has arrived. His advisers have not arrived yet.

Hon. Mr. McMurtry: That is strange. Is somebody trying to deliver me a message?

Mr. Chairman: They cannot be deserting the ship so soon.

We are on vote 1506. As we concluded last evening, one of the items to be addressed by your ministry was the Lieutenant Governor's warrants, and Mr. Renwick had some concerns about the Theatres Act.

Hon. Mr. McMurtry: Mr. John Takach is going to address the issue of the Lieutenant Governor's warrants. I thought he would have been here by now, but I am sure he will be arriving momentarily.

11:30 a.m.

Mr. Renwick: We can carry on. If I recall correctly, there is also a question related to the status of the appeals under the Theatres Act. There are two cases, and the question is whether the one is going to be appealed and the status of the Supreme Court of Canada appeal. My information is that the ministry factum has not yet been filed in the Supreme Court of Canada.

Hon. Mr. McMurtry: We will have that information for you, Mr. Renwick.

Mr. Renwick: Maybe we could go ahead with some other matters.

Mr. Chairman: All right. I think we should proceed, Mr. Renwick, until the Attorney General's staff arrives.

Mr. Renwick: You think we should?

Mr. Chairman: I think we should. If you have any other questions, go ahead.

Mr. Breithaupt: Can the Attorney General make any comment today on the article in the Toronto Star I referred to him yesterday on the literature that is available at the Deutsche Buchhandlung on Spadina Avenue? Is there anything new that can be reported at this time?

Hon. Mr. McMurtry: There is nothing new overnight. I indicated yesterday we would be reviewing some of those books. I know that the Project H we created, made up of Metropolitan Toronto and Ontario Provincial Police officers, consulting with our ministry lawyers who have developed an expertise in this very complex area, will be actively reviewing this matter to determine whether there has been a breach of the Criminal Code.

Mr. Breithaupt: Fine. I look forward to hearing more in due course.

Mr. Chairman: Welcome, gentlemen. As you will have noted, we have been awaiting your arrival.

Mr. Breithaupt: I guess the first topic is the Lieutenant Governor's warrants about which Mr. Renwick and I have asked some questions. I understand Mr. Takach has some comments to make on the procedure.

Mr. Takach: Mr. Renwick correctly suggested there had been a change in the procedure. The change was effective on March 1, 1984. To understand the reason for the change one has to go back to the pre-1968-69 amendment to the Criminal Code. In 1968-69 a new provision was enacted, namely, section 547 of the code, which basically provided for the establishment of what we know as an advisory review board.

Prior to that time in Ontario, and I believe in probably a number of other provinces, there had been in effect advisory review boards, but they had been created under provincial legislation. In Ontario the appropriate legislation was the Mental Health Act. I do not recall what the original sections were, but certainly as of March 1984, or shortly before, it was section 34 of the Mental Health Act.

In any event, after the enactment of section 547, a number of the other provinces created or established their boards through section 547 of the Criminal Code, notwithstanding the fact that they had in existence boards that could advise the Lieutenant Governor in making his decision. I think by shortly before 1984 probably every other province's board was established or reestablished under section 547. One of the subsections of that section provides that the

advisory review board report to the Lieutenant Governor.

Ontario, up until March 1984, still had its board established through the Mental Health Act. Section 34 of the Mental Health Act provided that the Lieutenant Governor in Council receive the report of the advisory review board. That was the basic difference between the Criminal Code and the Mental Health Act.

In any event, in order to bring Ontario in line with the other provinces, the board was reestablished under section 547. The Criminal Code said to report to the Lieutenant Governor and therefore the advisory review board reports to the Lieutenant Governor.

As a consequence, in addition the advisory review board now established under section 547, and I think subsection 7, would have the powers of subpoena, whereas the provincial board did not. That was certainly an advantage or an additional feature of the Criminal Code establishment by that mode.

As an aside, even section 547 is under review by the federal government or by the Law Reform Commission of Canada and I know further thought is being given to the mode in which the persons who are found unfit or are found insane, be it under sections 545 or 546, will be dealt with in the future.

I know that consideration is being given to whether there will be involvement by the Lieutenant Governor at all or whether it will be solely a function of the advisory review board. There have been some studies and there has certainly been a voluminous report by the Law Reform Commission in that regard.

Mr. Breithaupt: In this matter, the Lieutenant Governor acts without advice from the executive council.

Mr. Takach: That is correct.

Mr. Renwick: This matter came to my attention because Helen Connell of the London Free Press called me a few days ago about the matter. An article appeared on October 17 related to it. I was disturbed when she spoke to me by telephone because I was quite unaware of the change in the procedure.

The way in which the advisory board had been established in Ontario under the provision of the Mental Health Act, the specific provision that still remains in the Mental Health Act of Ontario, had led me to believe that, regardless of the precise wording of the code in the reference that is solely to the Lieutenant Governor, under section 34 which has been in the statute for some

considerable time we were not touched in any way when the Mental Health Act was amended.

Subsection 34(1) states, "The Lieutenant Governor in council may appoint an advisory review board for any one or more psychiatric facilities," etc.

Subsection 34(5) then goes on, "The case of every patient in a psychiatric facility who is detained under the authority of a warrant of the Lieutenant Governor under the Criminal Code (Canada) shall be considered by the advisory review board having jurisdiction once in every year", etc.

Subsection 34(8) then states further on, "Upon the conclusion of an inquiry the chairman shall prepare a written report of the recommendations of the advisory review board and, within the time prescribed by the regulations, shall transmit a copy thereof to the Lieutenant Governor in Council, and may in his discretion transmit a copy thereof to any other person."

I assumed that was the way in which it had happened. As a result of the call, I looked closely at the case of Regina versus Saxell and I could understand how the lawyers would thread the procedure as it is now obviously in force, but I find it immensely upsetting.

11:40 a.m.

I had received towards the end of August, but had not read, the monograph from the Honourable Edson Haines, who is chairman of that committee in the edition, and had simply not had a chance to study it. Although he refers in his letter of transmittal to the Lieutenant Governor, "Your board has come under the Criminal Code," etc., it does not in any way indicate to me any clear statement of what to me would be a very significant change under our system of government, that the Lieutenant Governor would be acting as the representative of Her Majesty in the province but would always be acting with respect to the advice of the cabinet.

There is no point in my particularly labouring the matter, except to express my extreme concern about such change being made. Second, an even more extreme concern is that no specific statement was made publicly about the change in the procedure, not simply because of the concern that members of the assembly might express but with respect to the persons who are detained under the warrants.

It seems incomprehensible to me that if there is a significant change in the process under which people are detained at the pleasure of the Lieutenant Governor, whatever that process is, to change the process and not advise those persons who were detained and those who were advising and those who have an interest in that field, is a severe dereliction of responsibility.

I looked at Obstacles, which is the report of the special committee on the disabled and the handicapped, of which former member of Parliament David Smith was the chairman. Their report in February of 1981 had specific recommendations that, for practical purposes, asked for the abolition of the Lieutenant Governor's warrant in any form. The recommendations are contained in page 25 of that report.

There is a further recommendation with respect to some suggestions pending the replacement of that process. The actual recommendation was that the federal government, through the Department of Justice and in consultation with the provincial health authorities, reform the Criminal Code provisions relating to mentally disabled persons in order to develop and implement a new procedure to replace the Lieutenant Governor's warrant; provide special facilities and treatment of the mentally disabled who are sentenced by the courts; define the rights before the law of mentally retarded and mentally ill persons; establish fair and appropriate procedures for all stages of the criminal process when mentally disabled accused are involved-that is, arrest, bail, fitness to stand trial, finding of criminal responsibility and disposition.

A second recommendation on page 26 was that, pending the replacement of the present legal system of Lieutenant Governor's warrants, the federal government request the Minister of Justice to meet with the provincial authorities in order to review the operation of the warrants with particular reference to the functioning of review boards, particularly where cases of mentally retarded persons are being considered, and the individual cases of persons currently being held in indefinite detention under Lieutenant Governor's warrants.

There was, as well, the provision in the Law Reform Commission report of 1976, dealing again with this question of the recommendation about the Lieutenant Governor's warrants, calling for the abolition of that process, the substitution of a new process, and specifically again drawing attention to the relationship of the review boards to the process that is currently undertaken.

Then, of course, I guess Mr. Justice Edson Haines, in reissuing that monograph, probably stated it as well as anyone. I think his term is that it is an awesome responsibility that devolves upon the Lieutenant Governor: "He must protect

the public from the patient's madness while at the same time providing humane treatment and reasonable psychiatric care. This responsibility cannot be delegated in Ontario. It remains at all times with the Lieutenant Governor."

Whatever the facts of the matter are, perhaps the Attorney General can tell me what the process was with respect to the cabinet before the change on March 1 this year. What did the cabinet do on the recommendations of the review board? When the review board reported to cabinet, cabinet received a copy of the report. What happened in cabinet in relation to advising the Lieutenant Governor? Where is there any nexus of accountability in a parliamentary system for persons who now appear simply to be at the disposal of one particular person, however meritorious that individual might be?

Hon. Mr. McMurtry: The process that existed before this change was of concern to the individual members of cabinet because of the lengthy histories of the individuals who are subject to these Lieutenant Governor's warrants. Any loosening or changing of the warrant, of course, necessitated a very extensive review of what in many cases were long histories, including incidents that were of great concern to the community.

I was looking for the right word. They cannot be referred to as crimes since they were found not guilty by reason of insanity. I recall at one time—I am sorry that I cannot help you with the dates, but this goes back a few years—we arranged for Mr. Justice Haines to appear before cabinet and go into the process at some length, because we were always concerned about whether we had sufficient evidence before cabinet to deal properly with these recommendations.

Of course, the cabinet was asked to act on the recommendation of the Minister of Health, which was virtually always in accordance with the recommendation of the advisory review board. Individual cabinet ministers were concerned, as I have already stated, that it was difficult for them to obtain sufficient information. It was not that anybody was refusing information to individual cabinet ministers, but the obvious paperwork involved in each individual cabinet minister going through the material that would have been available, quite frankly, was totally impractical.

It really was a matter of the cabinet in virtually all cases being confident in the process that had been established by the advisory review board and, again, relying on the capacity of the Ministry of Health to monitor these matters as well.

11:50 a.m.

Mr. Breithaupt: I can see how the members of cabinet might wish to be able to avoid the lengthy studies that would have to occur in each individual case, but it does not seem right to me somehow that, by giving this over to the Lieutenant Governor almost personally as far as his bedtime reading is concerned, it is handling the situation in the tradition of action being based upon the reference and decision of responsible ministers.

If the situation was such that the board of review being monitored by the Minister of Health then had the recommendation of the Minister of Health upon which the Lieutenant Governor would act, that would be a way of bringing it into the responsibility tradition. I do not like very much the idea of avoiding the certainly lengthy burden of detailed cases for these individuals coming forward, from the cabinet's point of view, by just passing it over to the Lieutenant Governor.

I cannot see in our tradition, as I understand it—where really only the disallowance of provincial legislation is, as I recall, about the only function under the instructions that the Lieutenant Governor receives, as I understand the system—that this particular area should now be, perhaps under the royal prerogative of clemency, sharpened into one of the effective roles of the Lieutenant Governor as an individual, because if this does not come through his instructions, I cannot see how the cabinet can avoid being the responsible source of reference and opinion to the Lieutenant Governor who must then act in accordance with the advice that is given.

Hon. Mr. McMurtry: I think the issues that you are raising are very valid, very relevant and very important. It is a matter that we are concerned about.

Certainly the Minister of Health, of course, is still involved in the process. I cannot really disagree with anything you have said in respect to the constitutional dimensions of this matter, particularly as it relates to constitutional conventions with relation to Her Majesty's adviser in the province of Ontario

All I can say at this time is that the ministry will perhaps become more involved in monitoring and reviewing the situation than we have been in recent months.

Mr. Breithaupt: How many of these situations do come forward in a month or two? Is there a fairly large number?

Mr. Renwick: The monographs said there were about 400 under warrant and an additional 60 to 70 warrants per year. There is a requirement that each of those must be reviewed at least once each year.

Mr. Breithaupt: That review might not necessarily lead to a recommendation.

Mr. Renwick: No. My understanding is that each statutory inquiry under our Mental Health Act that has to be undertaken each year has to result in a report. Am I correct on that? That report under the Mental Health Act has to go to cabinet. Apparently the cabinet, as the minister said, had a responsibility. Now that apparently has stopped. Those reports are not coming to cabinet. Specifically, of course, in the very real sense the board established by the cabinet under the Mental Health Act is not complying with the law because now a copy of the report does not even get to cabinet.

Mr. Breithaupt: Then it would appear that two or three a day are going to have to be personally considered in their length and detail by the Lieutenant Governor. I hardly think he will have much time to do anything else. It just does not seem to make sense.

Hon. Mr. McMurtry: No; about the figure of 400, I did not quite understand Mr. Renwick to suggest that there were 400 of these matters dealt with by the Lieutenant Governor in a year.

Mr. Breithaupt: But if they require annual review and a report, then whether the warrant is loosened or maintained it would have to have some notation each time.

Mr. Renwick: What he is saying is that—this is quoting Mr. Justice Haines in the monograph on the Lieutenant Governor's warrants, which was issued in a third edition in 1984:

"As of the end of 1983, there were over 400 cases. New cases are being added at a rate of 50 to 70 per year. In 1984, the board will be scheduling over 500 reviews and is sitting outside of Toronto for 35 weeks."

If, as I had understood it, there was to be compliance with section 34 of the Mental Health Act, it states quite clearly that the case of every patient detained under Lieutenant Governor's warrant shall be considered by the advisory review board once in every year. Subsection 34(8) states, "Upon the conclusion of an inquiry, the chairman shall prepare a written report of the recommendations of the advisory review board and, within the time prescribed by the regulations, shall transmit a copy thereof to the Lieutenant Governor in Council."

I am glad the question has come. I am not suggesting it is a simple problem. As the Regina versus Saxell case seems to indicate, with no disrespect, it could be Mr. X who is named in the Criminal Code. That he is the agent of the government under the Criminal Code has nothing to do with his prerogative as Lieutenant Governor. Originally, there was a prerogative right to be responsible for the care of people who were unable to take care of themselves.

Mr. Breithaupt: But that still can only be under the advice of responsible counsel.

Mr. Renwick: The Saxell case says it is not a matter of prerogative. He is simply an agent appointed under the Criminal Code to perform a function. Again with no disrespect, it could be Mr. X who performs it.

I suppose we are going to have changes on it. If it is difficult for the Lieutenant Governor to exercise his responsibility under the code, it is at least easier for the cabinet to assist him. Even though individual members of the cabinet may have difficulty in coping with the matter and may have to assume part of the collective responsibility within that process, it will be done.

Mr. Breithaupt: Or through a committee of cabinet or whatever.

Mr. Renwick: Committee of cabinet, whatever the method that is going to be used. It just offends me to think that in this day and age the Lieutenant Governor, both from his point of view and the accountability of the process, is left out there by himself discharging what Mr. Justice Haines refers to as this awesome responsibility. Within the terms of our system, it is an awesome responsibility.

12 noon

Mr. Breithaupt: I agree with you entirely. It does not seem right to me that that kind of a duty is in place where actions, well-meaning and thorough though I am sure they would be, are going ahead without the advice of the executive council. It just does not seem right.

Mr. Renwick: Within very strict terms, it is a very serious matter that the review board is not submitting those reports to the Lieutenant Governor in Council, as is required by our Mental Health Act, unless someone is telling me the Mental Health Act is no longer applicable for some reason I do not understand, because that is the only board that is operating in Ontario.

Hon. Mr. McMurtry: As was touched on a moment ago, the federal government is reviewing all these provisions in the Criminal Code. We have some material from the federal government

in that respect. We would be very happy to share that material with you and would be pleased to have any input from the committee in its deliberations. There are obviously dimensions about this problem that are very troublesome, and there always will be. We hope the federal government does not make it more awkward than it is now.

Basically what we have is a body that I think of as a quasi-judicial body which is making the decision after a hearing. Any time you ask cabinet to deal with a decision, in relation to affirming the decision as far as passing on the recommendation or approving the recommendation of the Lieutenant Governor is concerned, the process is fraught with a little difficulty. An executive council cannot function as an appellate court for obvious reasons. There are other areas in which this has caused us concerns as an executive council.

When I say the Ministry of the Attorney General will want to become a little more involved in monitoring this process, I should also add that in one important respect we have become more involved in recent times. That is with respect to counsel appearing before the review board in certain cases, and I should say quite frequently, to ensure that the public interest is vigorously represented.

That is not to suggest that in the absence of counsel for the Attorney General the board is not totally dedicated or committed to serving the public interest. There are some cases in which the ministry simply feels we can assist the board in coming to a decision that is in the public interest. We have been taking a much more active role as counsel and providing counsel to appear.

Mr. Breithaupt: It seems we are agreed that the procedure, as set out under the Mental Health Act, and now with the change in the Criminal Code, does not seem to be quite the right thing, from our personal understanding of the tradition of government in the province. It just does not seem to be something we are comfortable with. It may be, of course, that in this circumstance we are not burdened with the knowledge of the facts in these situations, but the background of the system certainly gives me the sense, from my understanding of it, that this kind of procedure is not—

Mr. Renwick: The Law Reform Commission, in Mental Disorder in the Criminal Process, in 1976 sets out a couple of points which I think deserve to be made following what Mr. Breithaupt has said.

Their understanding of it was that the Lieutenant Governor's warrant is a federal power contained in the Criminal Code delegated to the provincial Lieutenant Governor, usually exercised by the provincial Attorney General or cabinet and most often administered by the provincial department of health. Certainly whatever outside cursory understanding I had was that because of the Mental Health Act provision, it was the cabinet that did it. I am distressed to find that has changed.

This question of nonreviewability, for example, raises a most serious problem because, quoting again the Law Reform Commission on nonreviewability: "Detention under a Lieutenant Governor's warrant is not subject to judicial review. The warrant is issued under the authority of the provincial sovereign and is not subject to either review or appeal. Even though we now have boards of review in most provinces that periodically consider the cases of all individual's held under the Lieutenant Governor's warrant, these boards only advise the Lieutenant Governor. If the advice is not followed, there is nothing the individual can do to compel his release or a review of his detention."

We have the funny sense that he is the agent of the federal government but the actual document he issues, if this is a correct reading of it, is under the authority of the sovereign in right of the province of Ontario. It is not subject to either review or appeal. He is certainly not bound to accept the recommendation of the advisory board.

I am grateful to Helen Connell for drawing that to our attention. I do not know at what point I might have stumbled on it—I just had no idea—or whether I would ever have stumbled on it.

I would hope, now that the matter has been raised and with the recommendation of the Law Reform Commission, your ongoing reviews and the comments made in Obstacles, along with the question of the Charter of Rights and so on, it could be treated as a matter that requires urgent, immediate attention with respect to the process.

In view of the complexity of the procedure in any event, and the relationship of the parties that are involved, I cannot conceive for a moment that any fundamental constitutional position will be destroyed in any way if we revert to the system that was in course before, with whatever improvements in that process there be, that these matters go to the Lieutenant Governor in Council and that the cabinet have the responsibility of giving advice to the Lieutenant Governor on the matter.

What Mr. Breithaupt has said, the possibility of a committee of cabinet acting on advice of senior representatives of the Ministry of Health and the Ministry of the Attorney General and having responsibility to review the recommendations of the review board and bring them to cabinet and for cabinet to advise the Lieutenant Governor, seems to me to be a process that we should basically return to.

12:10 p.m.

I would urge the Attorney General, before the House rises this session, to make a statement with respect to it in the House to allay what will undoubtedly be the concern of everybody who appears about this, who is directly involved, as well as those indirectly involved, to say that, pending a total review and whatever ultimately happens to it, you will return to the former system with whatever internal improvements you have to make in order to deal with it. That would be a satisfactory resolution of it, from my point of view, for the time being.

Mr. Chairman: Thank you, Mr. Renwick. Does the minister have any further comments?

Hon. Mr. McMurtry: No. I am very interested in the comments that have been made. They will be given serious consideration as this matter proceeds.

There is another matter we could deal with now. That is the William Baker case Mr. Renwick raised earlier.

Mr. Renwick: The status of the appeal.

Hon. Mr. McMurtry: The William Baker case, the Hamilton case—

Mr. Renwick: I am sorry.

Hon. Mr. McMurtry: The Baker case? It is William Baker, is it not?

Mr. Renwick: I have not raised Baker in the estimates. I raised the state of the appeal to the Supreme Court of Canada in the Theatres Act. I purposely did not raise the Baker case simply because the Solicitor General (Mr. G. W. Taylor) said the other day he had now just received the OPP report on the investigation.

Hon. Mr. McMurtry: We have it listed as one of the matters you referred to. Maybe it was just a reference.

Mr. Renwick: Maybe someone was just jumping to the conclusion I would raise it.

All I wanted to say on the appeal is my understanding is that the Theatres Act appeal seems to be stalled. Leave to appeal to the Supreme Court of Canada was granted in April,

but as of a very few days ago the factum has not been filed.

Hon. Mr. McMurtry: The note I have is that we are checking on the state of filing of documents to the Supreme Court of Canada. I have not had a report back but we will have something back for you next week.

Mr. Renwick: My information is that it has not yet been done. If it is agreeable to my colleagues, I have some other matters I would like to deal with.

Mr. Chairman: It is agreeable, Mr. Renwick.

Mr. Renwick: I would like very much if I could solicit your support for a letter I wrote to your colleague the Solicitor General. I took the trouble of making a copy for Mr. Breithaupt and a copy, sir, for you.

I have been trying to follow this question of the 24-hour opening of the convenience stores. I notice, sir, that you had preferred an indictment in the Turnbull case. I have been following the incidence of violence across the province to the extent that the press clippings service allows me to follow it. I have a continuing concern about it.

I wrote to your colleague on September 27 saying:

"Can I simply now appeal to you to appoint immediately a task force to deal with the question of crime prevention at 24-hour stores? Unless you take the initiative in this matter, it is my sense that little, if anything, will in fact be done. It appears to me to require immediate action on behalf of the government.

"Indeed, a task force may not be sufficient and a short-term, one-person commission of inquiry may well be necessary in order to be able to be certain that the owners and operators of the stores, as well as all others concerned in this problem, will have the obligation to appear and respond. It is the kind of problem that can be dealt with by a good commissioner within, I would think, three to four months, and standards could be established with respect to it."

What prompted me was not only the incidents that appear off and on in the press in different places across the province—there have been certain ones in Ottawa, I believe there was one in North Bay and I think there was one in Thunder Bay.

In addition to that, there have been varying degrees of co-operation by the owners of the convenience store franchise chains with respect to coming up with solutions to the problems. I am not going to name any names but it has been reported in the press that one of the companies has been quite co-operative and has been

working to establish a system and others have not. Then there are a lot of stores that are fairly remote individual stores which are not in the franchise field.

It seems to me that, if one assumes that in our kind of society 24-hour opening of convenience stores is for market or other reasons necessary, there should be very clear rules with respect to the security of those stores and the way in which they operate if they are going to be open from 11 o'clock in the evening to eight o'clock or nine o'clock in the morning, which are the dangerous hours.

I do not pretend to know all the technical ways in which it can be done, but it would be able to say, "This is the way your store must be equipped, this is the way your store must be laid out, and this is the way it must be done if you are to have the privilege of opening." I do not need to labour it. I wanted to let you be aware that I have written to your colleague.

It may well be that you do not need a commission. I am just concerned to get people to come and co-operate. If a decision was made that it would be simply a task force of a competent person, it may well be if you showed interest in it the people would co-operate in accomplishing it.

Hon. Mr. McMurtry: This is something that I will discuss with the Solicitor General at the earliest opportunity.

I point out that we have the chairman of the Ontario Municipal Board and the chairman of the Criminal Injuries Compensation Board in the audience. There is Mr. Ginsberg representing Mr. Sidney Linden. There is Mr. T. G. Murphy, vice-president and provincial registrar of the Assessment Review Board, and Mr. Swayze, chairman of the Board of Negotiation.

As you can appreciate, these are all hard-working servants of the public and, if we could deal with any of these issues this morning, it would be helpful.

Mr. Renwick: I am quite agreeable to standing down this vote and dealing with the last vote if that is all right. There is still a considerable amount of time left.

Hon. Mr. McMurtry: There was an issue related to the Criminal Injuries Compensation Board that you were raising in the context of child abuse, for example.

Mr. Renwick: As I say, we are now on the court part of it. I have a number of matters on that, but it does not matter whether I deal with them today or on Wednesday morning. I am quite content.

12:20 p.m.

Mr. Breithaupt: I had thought we would probably have sufficient opportunity to ask a variety of questions on these two votes today to allow us to complete the estimates. It would appear that, if we still have some three hours available to us, we probably should consider whether we would set Wednesday morning aside and deal entirely with vote 1507 that morning.

It would allow us to complete today the various questions on courts administration that, no doubt, will take us to one o'clock. We would know that there was only one vote to be dealt with and the time could be divided, depending upon the questions and interest of members in the variety of boards and commissions in the last vote.

Mr. Renwick: Would you consider it the other way around? The courts administration program raises a diverse number of court matters of one kind or another which, certainly from my point of view, cannot be dealt with—well, it can—between now and one o'clock if necessary. Out of courtesy to those who are here, because we thought we would be at vote 1507, rather than ask them to come back next Wednesday, perhaps we could deal with vote 1507 and agree to complete it today and come back to 1506 on Wednesday morning.

Mr. Breithaupt: That would be fine. There are certainly a goodly number of questions that can be put forward under the general catch-all topic of courts administration. In order not to inconvenience people, I think this would work out quite well.

Mr. Chairman: With that, I think we can stand down vote 1506 and go to 1507 now and come back on Wednesday morning to 1506.

Hon. Mr. McMurtry: Mr. Chairman, I wonder if it would be very helpful, if we could just take half a moment now before we proceed to vote 1507, for either, or preferably both, of the critics to give us some idea as to which issues they would like to emphasize in relation to courts administration in order that the number of individuals here who have responsibilities in reference to courts administration might be even better prepared for next Wednesday.

Mr. Renwick: It is kind of a hotchpotch, as you can imagine, but I am quite prepared to run through a few of the matters which perhaps it would be of some assistance to deal with. I cannot pretend to deal with them all.

One matter is what progress is being made and what directives have been issued in the whole

area of the relationship between the victim of a crime and the court process in the criminal court process. There have been various recommendations in the pamphlets you have issued and so on, but I am most interested to find out how that aspect of the improvement of the court system has worked out.

I would like to have an opportunity to have a brief exchange with you on questions of voluntary mediation as an alternative matter, not necessarily only in family disputes but in other areas as well.

I would like to have the best estimate possible of the cost to the administration of justice of the bathhouse raids which are now almost at the end of the course.

I did write to you about the judgment of Mr. Justice Rosenberg with respect to the Parcost program and my very great concern about some of the remarks the justice had to say with respect to the way in which the Ministry of Health had dealt with that question, specifically whether or not there was any evidence of any widespread improper activity within the settlement of the Parcost program, recognizing that the justice had some very serious strictures about what had happened, carefully pointing out that no allegations had been made by the applicants of any improper activity. It certainly deserves an appropriate response.

Hon. Mr. McMurtry: But Mr. Justice Rosenberg's decision in relation to Parcost, as I recall, referred to the Ministry of Health.

Mr. Renwick: I wrote to you and to the minister about it:

"The coverup by the ministry of this amazing concession is one factor out of the many that leads to the conclusion that the applicant has been unfairly dealt with. No corruption was alleged. The deceptive evidence filed by the ministry, to which I will be referring, appears to be an attempt to justify their treatment of the applicant."

Those are pretty serious words for a justice to make in a rendering a decision, which led me to write to you about it. Perhaps you would care to comment on it.

Mr. Chairman: May I interrupt just for a moment? If we are going to get to 1507 today, we are getting into a debate again.

Mr. Renwick: Perhaps I could meet with the deputy afterwards and run through a few more of the other items I wish to raise.

Mr. Breithaupt: I would just add to the matter of the bathhouse raids an interest in, particularly, the article that appeared in the Globe and Mail on

September 26 written by Duncan McMonagle. A variety of issues are raised there with respect to the charges still extant after some three and half years, and I would like those issues addressed when that matter is discussed.

The one other thing I would raise is the matter of the incarceration of drinking drivers, the 14-day theme. This was addressed in the Attorney General's opening comments, and I think it is important to discuss the overcrowding and the difficulties of dealing with these persons, particularly in the Metro area as you look at the designed capacity and the operational capacity, which is almost twice as much when you put people in closets and such like. So I would like some discussion of the burdens this is going to impose on the correctional service.

The other matters that my colleague has raised are the kinds of things we will discuss next Wednesday.

Mr. Chairman: We will now move on to vote 1507, the administrative tribunals program. I am sure the member for Riverdale or the member for Kitchener has a few questions on this vote.

On vote 1507, administrative tribunals program:

Mr. Breithaupt: I have no particular questions on themes-

Mr. Renwick: I would like to deal with the Criminal Injuries Compensation Board, if that is appropriate at this point. Then I have a matter I would like to raise with the chairman of the Assessment Review Board and a matter about police complaints.

Mr. Breithaupt: Yes. The police complaints theme is one I would like to deal with particularly as we look at the videotape situation. However, other than that—and I sure the Baker matter will come during that—if the member for Riverdale would like to carry on with the Assessment Review Board, we can deal with the Board of Negotiation and the Ontario Municipal Board this time without question as far as I am concerned and spend our time this day on the Assessment Review Board, the Criminal Injuries Compensation Board and the police complaints project.

Mr. Renwick: Which one would you like to deal with first?

Mr. Breithaupt: Perhaps you would like to start with the Assessment Review Board.

12:30 p.m.

Mr. Renwick: All right.

Hon. Mr. McMurtry: Mr. Terence Murphy is the vice-chairman and provincial registrar of

the Assessment Review Board. Welcome, Mr. Murphy; or I should allow the chairman to welcome you.

Mr. Chairman: I think you can do it quite adequately. Welcome, Mr. Murphy.

Mr. Murphy: Thank you.

Mr. Chairman: We are open for questions.

Mr. Renwick: Again, I must comment with some diffidence. I have been trying to look at those areas of the Attorney General's estimates that have had scant attention over the years, and one of them has been the question of the Assessment Review Board. I am attempting, and perhaps next year I will be in a better position to do so, to deal with it in a more fundamental way.

My first question is simply whether or not you have a manual, a booklet, that is readily available to persons who are looking at applications for assessment review, about the process they are going to be facing.

Mr. Murphy: We do have a publication put out by the Attorney General as a step-by-step guide to the assessment appeal procedure. I believe it sets out some of the steps, but does not cover all the areas. On the basis that the Ministry of Revenue is still assessing by various methods throughout the province and there are 838 municipalities, the booklet cannot cover all those possible areas.

Mr. Renwick: Is there no manual of procedure developed by the Assessment Review Board that could be made available to each complainant about what he or she can expect when they appear before your board?

Mr. Murphy: No, not specifically.

Mr. Renwick: I would be anxious that you and your colleagues, sir, might give consideration to the preparation, in conjunction with the ministry, of such a manual from the perspective of the person who is sitting on the review and the member of the public who is coming before you, as to what they can expect when they walk in the door that day and what they should be expected to be able to deal with before your board.

The second question flows from that. Perhaps the minister can also respond to this. Is any consideration being given to transferring the immense burden of establishing the reassessment or disestablishing the reassessment from the taxpayer to the assessor in the system?

I have been in communication with the chairman of the review board about what has become known as the 152 Roxton Road case, where the decision was given by the chairman and matter is under appeal. As I understand it, the

Ministry of Revenue has appealed it. Therefore, I am not talking about the substance of the case. I am talking about what the complainant had to do.

If I may give some indication to the minister of matters of which I am sure he is aware, the case was successful. Indeed, some people have viewed the decision as a very important one and the decision on appeal may very well affect a great number of the assessments which have been made in the city of Toronto on this vexed question of improvements, which was causing so much trouble.

This case was prepared in immense detail on behalf of the complainant. George Cominel, the agent for the complainant, outlined the complaint against the assessment, which formerly had been \$3,783 and it had been raised to \$6,360. He would present his case that this assessment was too high based on comparison with similar real property in the neighbourhood. A large number of comparable properties were introduced by way of photographs, such properties being similar in area and in the degree of improvement in alterations or renovations over the years.

Manuel Azevedo, an assistant to one of the alderman at city hall who was concerned and interested about this kind of problem as a political representative right on the ground, was the principal witness for the complainant and he described in detail the sources used in providing information for each of the comparables and the subject property examined.

He had investigated all the properties under complaint in this area but did not inspect the interiors of any of the comparables used to assist the complainant. He relied on visual inspection and, with the assistance of Mr. Keith Noble, photographed each of the properties referred to. These photographs were presented to the hearing to show the comparables mentioned earlier.

The information provided by Mr. Azevedo at the hearing to support the objections to the assessment came from many sources. They were as follows:

(1) The property owner's familiarity with his property and many of the comparable properties used; (2) the city records in the land use files and building permit files which showed where properties had been altered as a result of building permits having been issued and in some cases where work orders had been issued to force the owner to correct difficiencies in the property; (3) the tax collector's record; (4) the water revenue records of the finance department; (5) the assessment rolls; (6) the Toronto Real Estate Board record for 1980 showing the multiple

listings and sales together with the Teela survey showing the completed sales; and (7), personal knowledge of the individual houses gained from his experience of over 10 years as a real estate agent and from electoral experience in the federal riding of Trinity.

The many comparables introduced showed a great similarity. Based on this, the board was able to reach its decision.

I think my point is obviously clear. There are very few complainants who have either the time and money or can go through the kind of work that is required to establish a case. On the basis of that, the chairman gave what I say has been considered to be a landmark decision, which might very well affect what the Ministry of Revenue is doing in the city of Toronto to a large extent if it were upheld on appeal, and a substantial reduction in the assessment was made from \$6,360 back to \$4,760 in relation to the improvements that had been made.

12:40 p.m.

The onus, as you know, is on the taxpayer. It is extremely difficult for a taxpayer to be able, with all of the problems, to appeal an assessment. I have had experience from people in my own riding who were involved in it because we were hit with a large number of these reassessments. I think it is time and I would urge that a study be made to devise a more equitable procedure of presenting the cases.

So much of that matter—and there is a Latin phrase for it—is in the knowledge already of the assessors. Yet the taxpayer is the one who then has to go out and do all of this immense digging in a field of which he has no knowledge and then come before the board and be faced with a considerable amount of expertise and in many cases, the sort of barracking that goes on from assessors who present information that is very difficult to understand.

I think I, and others, could support it and I am not going to go on at any greater length. The point is clear. I seriously ask that we look at that act from the point of view of equalizing the burden of the preparation and presentation of the case.

Hon. Mr. McMurtry: We will certainly be pleased to review that matter in view of the concerns you have raised, Mr. Renwick. Any amendments to the act are the responsibility of the Minister of Revenue (Mr. Gregory), but obviously our input would be important.

Mr. Renwick: Yes, I would think it would be. I am quite clear about that. It touches right on the position of people when they appear before that

board. Often that board is considered to be a difficult board to appear in front of when the real problems are with respect to what the law is as to the burden of proof that has to be discharged. I think it is quite a mess.

That is not a reflection on the board which is operating within the framework of its procedure. How many cases do you have before your board now?

Mr. Murphy: At present we have about 87,000 outstanding.

Mr. Renwick: Going back how many years?

Mr. Murphy: Most of them are up to date. Currently, the only matter that is outstanding is the condominiums.

Mr. Renwick: When you say up to date, would they be matters related to assessments made in 1982 and 1983 basically?

Mr. Murphy: That is correct, yes. We generally dispose of approximately 90 per cent of all complaints filed in any particular year.

Mr. Renwick: But by the time they get to you, how old are most of the cases you hear? Are they 1980 or 1981?

Mr. Murphy: No, they are current.

Mr. Renwick: In other words, 1982 or 1983.

Mr. Murphy: Yes, 1983 for 1984 taxation.

Mr. Renwick: So across the province you are pretty well up to date?

Mr. Murphy: That is correct.

Mr. Renwick: I guess I can ask the Ontario Municipal Board how many cases it has on appeal.

Mr. Chairman: Thank you, Mr. Renwick. Are there any further questions for Mr. Murphy? If not, we will move to the Criminal Injuries Compensation Board.

We have the former member, the Honourable Allan Grossman.

Mr. Breithaupt: Mr. Chairman, can we carry items 1 and 2?

Mr. Chairman: Shall items 1 and 2 of vote 1507 carry?

Mr. Renwick: Which ones are those?

Mr. Breithaupt: The Assessment Review Board and the Board of Negotiation.

Mr. Chairman: Items 1 and 2 are agreed to; we will now deal with item 3, Criminal Injuries Compensation Board:

Mr. Chairman: With us we have the former member, the Honourable Allan Grossman, who is now the chairman of the Criminal Injuries Compensation Board. Welcome, Mr. Grossman.

Mr. Grossman: Thank you, Mr. Chairman.

Mr. Chairman: Mr. Breithaupt or Mr. Renwick?

Mr. Breithaupt: Mr. Renwick had a couple of questions so he may carry on. I will save my questions for the complaints project, if we get that opportunity.

Hon. Mr. McMurtry: Welcome, Mr. Grossman. It is always a pleasure to see a very distinguished predecessor on the executive council and member of the Legislature. I am always delighted to see you.

Mr. Grossman: Thank you, Mr. McMurtry. Did I hear someone say they had some complaints?

Mr. Chairman: I think it was Mr. Renwick.

Mr. Grossman: I cannot believe it.

Mr. Renwick: I guess the obvious question is whether the time has come to persuade the Attorney General to increase the maximum under the board. I wondered whether, sir, you would be free to—

Hon. Mr. McMurtry: I should interject that the Attorney General is persuaded of that fact, so you do not have to persuade the Attorney General. Certainly, Mr. Grossman's comments have been helpful. He shared them with me and I would be very happy for him to share them with the committee.

Mr. Grossman: Actually, it is public. I have done this before publicly in the published reports. Incidentally, I have a bad cold so if I cannot be heard ask me to speak up.

It has been in the annual reports. The last time I had the pleasure of meeting with the standing committee on procedural affairs I publicly stated we should have an increase, because 10 years have passed since then.

As he has stated, the Attorney General is giving it some consideration at the present time. The question from here on is a matter of policy of the government. I do not think he disagrees on that matter.

Mr. Renwick: I suppose the answer now is whether it is the time of restraint, the burden of work or whatever it is in implementing it, because I think everybody was in agreement that it needed to be raised. Is it a financial consideration?

Hon. Mr. McMurtry: It is certainly a financial consideration.

Mr. Breithaupt: What proportion of the cases that have been decided are at the upper range of the limits as they now exist?

Mr. Grossman: I do not have that figure.

Mr. Breithaupt: Just as a general idea.

Mr. Grossman: I would think about anywhere from 10 to 15 per cent.

Mr. Renwick: How does the funding actually work now with the federal government with respect to the cost-sharing of the compensation?

Hon. Mr. McMurtry: It is 10 cents per capita. We have been asking for 25 cents. It is 10 cents per capita, so that would be—

Mr. Breithaupt: It would be \$825,000.

Hon. Mr. McMurtry: –approximately \$825,000.

Mr. Grossman: It is 10 cents per capita of population or half of the awards, whichever is least. In effect, that has resulted in the federal government's portion, which started off at 50 per cent when the board was first put in existence, now being down to about 27 per cent, I think the figure is, because of that formula. Our population has increased and we have stayed at 10 cents per capita. It is about \$850,000 or \$900,000, whereas we paid out last year about \$3.25 million.

Mr. Renwick: The other item in connection with the board that I would like to raise is a problem about a man who received an award from your board. We wrote to the board and the board responded giving the particulars of it.

The problem was not with the award that was given by the board. The problem was what happened to this person who was on general welfare assistance or family benefits. I wrote to the metropolitan community services department and got a reply in respect of that, and I wrote to the Ministry of Community and Social Services and got a response to that.

I know my constituent would not mind me using his name in this case. He is Mr. Robert Halbert of 178 Hampton Avenue in Toronto.

12:50 p.m.

This is from the metropolitan community services department:

"In response to your request regarding the above named, I have reviewed Mr. Halbert's financial circumstances as they pertain to this department's general assistance program. On May 18, 1984, Mr. Halbert was awarded a lump sum payment of \$4,220 from the Criminal Injuries Compensation Board. Due to legal costs of \$448.42 incurred with the Ontario legal aid plan, Mr. Halbert had a net amount of \$3,771.58 available to him.

"This department, therefore, no longer considered Mr. Halbert a person in need, effective June 1, 1984, as his assets of \$3,771.58 exceeded the allowable two months' assistance of \$706. Mr. Halbert has been advised he may reapply for assistance on January 1, 1985.

"This department determined that his assets of \$3,771.58 should cover him for the period from June 1, 1984, to June 1, 1985. Mr. Halbert has not indicated to this department any outstanding debts or expenses he has or will incur. Should Mr. Halbert reapply prior to January 1, 1985, he will be required to submit a list verifying his expenditures.

"I note that the General Welfare Assistance Act stipulates that a client's assistance must be reduced by the amount of benefits paid to or on behalf of the applicant or recipient and any of his dependants under the Compensation for Victims of Crime Act."

That apparently is the procedure and there is a similar procedure, couched in different terms, in the response I received from the Deputy Minister of Community and Social Services on the matter.

This particular man had been unemployed for some time. He had, as you can imagine, practically nothing. My concern is about the implications of what is happening when awards are made to a person under the General Welfare Assistance Act or under family benefits. I thought they were to be, in a sense, compensation for damages the person suffered as a result of crime, and it appeared to me they should be treated in a somewhat different way.

This particular man came to me without any sort of conceptual concern about it. A lawyer referred him to me because he could not understand why this fellow was not left with a few dollars with which he could get about. He wanted to buy a few clothes and get on with trying to assist himself in getting employment and re-establishing himself.

I do not know how it strikes my colleague, Mr. Breithaupt, or how it strikes the Attorney General, but it seems to me to be working a bit at cross purposes in that kind of situation, that all that money would suddenly—he says, "Why the hell did I go to the trouble?"

Hon. Mr. McMurtry: We agree, and we are trying to work this out. I know the chairman is very strongly of this view and has been very active in assisting individuals recipients through this maze. Obviously, there have to be some fundamental changes in policy.

Mr. Renwick: Yes, I recognize that. That is why I wanted to raise it. I would be quite happy to

leave these two letters, one from the Deputy Minister of Community and Social Services and the other from Mr. Tomlinson, the Commissioner of Social Services for Metropolitan Toronto, which I think spell out the problem. Perhaps you could return them to me at some point.

There was a similar case with which I did not have anything to do. It was reported in the Globe and Mail on June 4 of this year, "Man Must Spend Award or Lose Benefits: Crime Award Creates Problems," which relates to the same kind of anomaly. I think it deserves a hard look to determine what can be done in those circumstances.

Hon. Mr. McMurtry: Again we agree, Mr. Renwick.

Mr. Chairman: Mr. Renwick, time is moving on and I do not know whether Mr. Breithaupt would like to—

Mr. Breithaupt: What I hoped we could do would be to carry this item and also that of the Ontario Municipal Board. Since I do have some questions I would like to ask on the videotaping situation, perhaps we could stand over the Metro police force complaints project to Wednesday morning and spend a half hour or so on that and then complete vote 1506.

Mr. Chairman: All right, that sounds reasonable. Any more questions?

Item 3 is agreed to, and we go to item 4, Ontario Municipal Board:

Mr. Renwick: I only have one question for someone from the Ontario Municipal Board. I would like to know the state of the assessments.

Hon. Mr. McMurtry: The chairman, Mr. Henry Stewart, is here.

Mr. Stewart: Mr. Chairman, I have with me the secretary, David Henderson.

Mr. Chairman: Please invite him to join you.

Mr. Stewart: I have with me the secretary of the board, Mr. Henderson and the vice-chairman, Mr. Colbourne. As the minister is aware, Mr. Colbourne has really been in charge of a large part of the administration of the assessment section. We have had a special section of the board dealing with the assessment appeals for the last two and a quarter years. Our purpose in that is to give special attention to the large backlog of appeals that were brought to us when the legislation was changed. I would ask that the questions be directed to Mr. Colbourne, who is much closer on a day-to-day basis to this.

Mr. Renwick: I am trying to follow this assessment backlog question that is before you.

Could you tell us how many assessment appeals are pending before the board and the time frame of the references with respect to them? What years are applicable?

Mr. Colbourne: There are two segments to that. We had the backlog from the county courts, which was considerable and stretched over a period from 1975 to about 1982. Those were transferred to us on January 1, 1983. We had a three-year target for that segment to be cleaned up. We seem to be well on target.

With respect to the components of the individual assessment appeals, the remainder are those that are major agents or major legal firms that have taken appeals on behalf of large clients. The individual ratepayers were looked after very quickly and I can safely say they have all been dealt with in the backlog.

With respect to current appeals, in 1983 we received some 1,650 from the Assessment Review Board. That would probably be 1982 for 1983. So far this year we have received 10,600. That would be 1983 for 1984. The current ones are being dealt with quickly and certainly all individual assessment appeals are being dealt with very quickly. That is a priority with us.

Mr. Renwick: When you say "very quickly," what would be an average case, assuming that people were not asking for a lot of adjournments?

Mr. Colbourne: In terms of time?

Mr. Renwick: Yes, from the time of the decision of the Assessment Review Board until the time that you were able to dispose of the particular individual case.

Mr. Colbourne: A total of about three months would be the outside.

Mr. Renwick: About three months.

Mr. Colbourne: That is to a hearing date. That is to a hearing before the board.

Mr. Renwick: The hearing and decision before the board, yes. Are you saying to me that for practical purposes you are current at the board?

Mr. Colbourne: Current for the 1982 for 1983 and 1983 for 1984. We still have some of the old county court backlog.

1 p.m.

Mr. Renwick: Yes, apart from the county court backlog, I understand that. It was the change in the legislation that did that.

Just out of curiosity, how much is left of the county court backlog?

Mr. Colbourne: There are about 50,000 complaints left, of which about 28,000 are the

Mississauga condominiums which are now leading to appeals being sought from the Divisional Court decision. We do not know what is going to transpire with that one. We have about 22,000 left to process that we are able to do right now.

Mr. Renwick: How do you see that being eliminated or dealt with?

Mr. Colbourne: As I have said, my original comment was that we are meeting the three-year target we had to clean up the entire—

Mr. Renwick: To clean up the whole, and you feel that you are basically on target.

Mr. Colbourne: Yes; if anything, we are slightly ahead of it.

Mr. Renwick: If someone comes to see me about appealing a decision of the Assessment Review Court to the Ontario Municipal Board, I can say that it is a matter at the outside of about four months if the case is moved along properly.

Mr. Colbourne: That is right, barring any adjournments or anyone raising an issue on the particular assessment appeal. It might be before the courts or something of that nature, or in respect of the Bowlby decision on renovated houses, which is taken more as a class action.

Mr. Renwick: Do you happen to know the state of the appeal on 152 Roxton?

Mr. Colbourne: Yes. It is going to be heard in November.

Mr. Renwick: Heard in November?

Mr. Colbourne: Yes. It has already been adjourned once, by the way.

Mr. Renwick: At the minister's request, I believe.

Mr. Colbourne: No.

Mr. Renwick: Was it not?

Mr. Colbourne: At the appellant's request.

Mr. Renwick: I thought it had something to do with the Ministry of Revenue. In any event, are you staying any other cases, pending the decision in that case? Are you treating any particular cases as a decision that would have a bearing in its decision on others?

Mr. Colbourne: Not other than those to be dealt with by the courts. There are others in condominiums, but not affecting individuals.

Mr. Chairman: Mr. Renwick, we have come to that time of day.

Mr. Renwick: Is it not a shame?

Mr. Chairman: It always is a shame. Before we go, shall item 4 carry? Carried

Mr. Chairman: I would like to ask Mr. Ginsberg whether it is possible for him to be here with us on Wednesday morning. We may have a few questions for him.

Interjections.

Mr. Breithaupt: We can perhaps deal with that perhaps for half an hour or three-quarters of an hour and then get on with the other matters.

The committee adjourned at 1 p.m.

CONTENTS

Friday, October 19, 1984

Courts administration program	J-297
Administrative tribunals program	
Assessment Review Board	
Board of Negotiation	J-307
Criminal Injuries Compensation Board	
Ontario Municipal Board	
Adjournment	

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)

Kolyn, A.; Chairman (Lakeshore PC)

McMurtry, Hon. R. R., Attorney General (Eglinton PC)

Renwick, J. A. (Riverdale NDP)

From the Ministry of the Attorney General:

Colbourne, D. S., Vice-Chairman, Ontario Municipal Board

Grossman, A., Chairman, Criminal Injuries Compensation Board

Murphy, T., Vice-Chairman and Provincial Registrar, Assessment Review Board

Stewart, H., Chairman, Ontario Municipal Board

Takach, J. D., Assistant Deputy Attorney General, Civil Law









No. J-15

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice Estimates, Ministry of the Attorney General



Fourth Session, 32nd Parliament Wednesday, October 24, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, October 24, 1984

The committee met at 10:09 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (concluded)

On vote 1507, administrative tribunals program; item 5, the metropolitan police force complaints project:

Mr. Chairman: Lady and gentlemen, I see a quorum. We were dealing with the metropolitan police force complaints project when we adjourned. Mr. Linden was not with us because he could not make it. I see Mr. Linden is here. We appreciate your coming, sir. Would you come to the table, please. I believe committee members would like to ask you some questions.

Mr. Breithaupt: Mr. Chairman, we welcome Mr. Linden, particularly because he could not be here when the vote was called and there were still some items to be considered concerning the operation of the public complaints commissioner, which flow from the second annual report.

Those of us on the justice committee who have visited with Mr. Linden in his offices can be encouraged by the results of the project as it has developed and as it will continue in Metropolitan Toronto.

The one issue I particularly want to talk about is videotaping confessions. This experiment is largely a response to accusations made from time to time concerning police brutality during preliminary interrogation. However, it seems to me that videotaping only the confessions is not going to satisfy the concerns which some have about ensuring that the system is entirely open and without any possibility of abuse.

I am aware of the Law Reform Commission of Canada's report in April outlining in general terms how this kind of process could work and develop. There have been editorial comments and articles, particularly dealing with videotaping as supplementary, rather than an alternative, to the present system. I refer to the Sault Ste. Marie Star on April 24 and also to a case in which both my friend the member for Riverdale (Mr. Renwick) and I had some involvement, the matter of William Franklin Baker.

This Hamilton situation received much press comment. Questions were asked in the Legisla-

ture about this whole theme. It is important for us to find out not only what process is continuing in that example, but also how videotaping the confession might or might not have dealt with the concerns raised in that case, mainly because that is the case that has had the greatest publicity in the last several months.

Two senior officers of the Hamilton-Went-worth police department apparently questioned the man for some six and a half hours. The result of that experience and the involvement of a private detective hired by the father has led to the release of that young man. The veracity of the confession was doubted, the charge was withdrawn and the youth was set free.

We do not know whether videotaping some or all of those six and a half hours would have led to an earlier satisfactory result based on the situation. Clearly, the police department has every bit as much at stake in the videotaping scene. Full disclosure will result and both the crown and the defence representatives will see what the results of the so-called confession may or may not be.

There was a lengthy article in the Sunday Star on April 29 of this year by Rich Friedman which dealt with the murder of a New York transit policeman by one Bruce Lorick. The videotaping there was a factor in clearly showing, in a relaxed and open way, that the confession—and, indeed, a replay of the use of the gun by the accused—was there for all to see with no question as to any forced confession.

What concerns me are the themes this pilot project has raised. I would refer particularly to an editorial in the Kingston Whig-Standard on September 12 by David Pulver. He refers to what I suppose is now going to be a new phrase in our legal lexicon, the "electronic notebook."

That is a great way of describing what the videotape system can mean as the constable's notebook, to record what happened. The accuracy or thoroughness of notes now becomes part of a videotape system where the sweep second hand of a clock is imposed and everything is remembered.

Apparently this process has been used on certain occasions in Kingston. The chief of police, Gerald Rice, states the police station's cameras are trained on suspects from the time

they are booked until they are lodged in the cells. He is quoted as saying as follows: "I do not see the point of videotaping just for the confession. Video cameras should be turned on from square one, but in a nonthreatening, studio-type setting. Often you bring a suspect in and he is acting like a raving animal. When he goes in front of the judge and jury, he is a gentleman."

They also refer to the comments of Clayton Ruby, who thinks this whole experiment is, as he says, "rigged to fail," and that perhaps thousands of dollars in court time and tax revenues are still going to be needed to determine whether or not the confession has been obtained voluntarily.

I do not know whether this pilot project is rigged to fail or not. This is what I would like to discuss with you this morning. As law professor Don Stuart at Queen's University says, does it seem to defy its purpose before it starts? Is looking at just the confessions going to give the balanced result we are all hoping for?

I would like to hear from Mr. Linden particularly how this pilot project will satisfy the concerns that have been raised. Clearly, in any pilot project it has to start somewhere, to see where we are about to go so the parameters can later be set, rules expanded upon and procedures more sharply defined.

What do you see the pilot project doing and how do you think its prospects will be as a guide for the future of this whole new theme, the electronic notebook?

Mr. Linden: Mr. Chairman, thank you very much for giving me the opportunity to answer that, or at least to discuss it with you.

This whole area of videotaping is relatively unknown in Canada. The particular project the police are talking about has not really been completely fleshed out yet. Exactly what they are going to do and how they are going to do it have not been conclusively determined yet.

I know they are consulting with the Ontario Law Reform Commission and I have encouraged them to build in an evaluation component so the pilot project can be evaluated. I have encouraged them to involve some independent assessment in that evaluation.

It is always a difficult thing when you are setting up a pilot project to decide where to start and how to structure it, especially when there are no precedents or guidelines of any great consequence to fall back on.

10:20 a.m.

They have been using videotape for a number of years in the United States, in Manhattan and the Bronx, for example, as the article mentioned.

Mr. Breithaupt: I think 1975 was mentioned.

Mr. Linden: After the statement has been made by the accused, they ask the accused whether or not he wishes to make that statement on video. They then turn on the cameras. They are really videotaping a replay of the statement that has already been given.

Virtually no jurisdiction anywhere in the world videotapes everything. You pretty well cannot. In other words, some decisions have to be made regardless of how complete or comprehensive the project is going to be. If, for example, you decided to put a camera at every single point in the station house, you would still have to contend with the adjoining garage. How would you cover that? You would have to have a camera there. A lot of the allegations of impropriety occur in the police vehicle—

Mr. Breithaupt: In the coming and going.

Mr. Linden: –on the way to the station. Some decisions, some hard choices, have to be made.

I applaud the Metropolitan Toronto Police for at least taking a stab at it. The project they have described so far is limited. It is limited in the number of offences for which they are going to use video. They are going to use it for a specific category of offences. It is limited in jurisdiction. During this pilot, only one police station will have cameras. It is limited in time, in terms of when the cameras are going to start. It has those limitations.

I hope that, once established, it will gradually be extended to include more offences, other police stations and an earlier point in time. I am encouraged that they are prepared to try it. Once this project has started, the Metropolitan Toronto Police will be at least as far ahead as any other police force in the use of this electronic device.

Mr. Breithaupt: What is the list of offences that will be covered? Do you recall?

Mr. Linden: I do not know the offences offhand. I am not sure if they are just murder, manslaugther, rape. In the early stages, we will use videotape for only the more serious indictable offences.

There is virtually no experience here in Canada. They do not have any equipment operators. They are going to have to train people. I think they have already indicated that they are going to use civilians as opposed to police officers to operate the equipment. Introducing a civilian element into the interrogation process is an innovation in itself. They will have civilians there while the investigation is going on.

The police are breaking new ground in this field and because it is a pilot project, it has to be watched and monitored carefully; and as I said, independently assessed at some point in time. Again, I am hopeful that it is a good start.

Mr. Chairman: Do you have a question?

Mr. MacQuarrie: I do not want to interrupt this particular line of questioning, Mr. Chairman. The member for Riverdale might want to follow up on it. I was going into the financial aspects more than anything.

Mr. Renwick: May I just take a brief moment on this matter, Mr. Chairman? I have come to no conclusion about it.

Frankly, I am extremely disappointed at the way in which this matter has developed in Metropolitan Toronto. I certainly do not think there has been an open and clear study of the question of videotaping in police stations or in jails with respect to the rights of individual persons. The search for truth is difficult enough in the court system, but to start to substitute videotaped confessions without addressing, in a very considered and studied way, the ambit within which the project will operate and the rules under which it will be done, just simply offends me.

I cannot concede that we should allow the project in Scarborough's number 4 district to go ahead.

I find it extremely offensive that there is no published ambit of this as a project, what its purpose is, what the protections of the person who is charged may be under the system, the selective nature of what is recorded for the purpose of use, what is selected with respect to those offences in which it will be used and with respect to the course of questioning of a person who is alleged to have committed an offence, through to the question of laying the charge and the point at which he appears in this particular setting in order to record his statement about the matter which will then be used in the court in order to affect his rights.

I do not pretend to have all the knowledge of the police system that others have, but I do know it is a long way from the stop on the street to the courtroom on many occasions. It is sometimes a long way from the stop on the street to the police station. I wish there was some way in which it could be stopped. I watched a bit on television when the features of the system were explained as it is used in the Buffalo area.

I have listened to and tried objectively to discount the vested interest of defence counsel in responding to some of these matters-not to

discount in any pejorative sense, but because of their concerns about it. I think the whole project should be stopped immediately until it is assessed, reviewed and studied in an appropriate way.

Again, it is part of the path down the road. Once you have spent half a million dollars on some kind of a project, it is very difficult to come up and say it is a lousy project. This does not happen. We will hear the positive aspects of it from the point of view of the police. I cannot add any more to it. It is being presented as though it is a favour to the accused person to have this facility now available to him.

If my memory serves me rightly, I read a very thorough review of Judge Goulard in Ottawa on a recent case. It was with respect to the whole question of police interrogation and the rules governing it, the ancient history behind it. The whole process is designed finally to allow a judge sitting in a court to make the decision as to whether or not the confession is a voluntary confession in the full sense of that term.

This process, if I may be abrupt about it, is simply designed to assist in pre-empting that question from the purview of the judge making the decision. I am surprised that the law officers of the crown and the minister responsible have not moved to say that if this is to be done, it is to be done in the course of a planned, carefully considered and thought-out project under the supervision of appropriate persons interested in the judicial process rather than in the police process.

I cannot add a great deal to it, other than to express my very profound concern.

Hon. Mr. McMurtry: I do not want to interrupt, but I just want to say that at the appropriate time I am going to ask Mr. Takach to address some of the concerns that have been raised by Mr. Renwick. We can do that afterwards.

10:30 a.m.

Mr. MacQuarrie: My questions centre on the financial aspects of the operation of the project. In terms of change, from the 1983–84 estimates to the current estimates now being considered, I notice we have jumped from \$705,000 to \$944,600. This is an increase of something in the order of 33 per cent.

Here is a total office cost which is pressing \$1 million. That is about 20 per cent of the cost of the Ombudsman's office. I am not sure how it compares with the operation of the Ontario Police Commission, but I rather suspect they are not too far apart. It strikes me as being an

excessive jump. I looked through some of the breakdown and saw salaries and wages in at \$587,800 and services at \$234,300. Can you comment on this? In these days of restraint, it seems a little hard-hitting when we get stuck with something like a 33 per cent increase in overall costs.

Mr. Linden: To some extent I think it is a result of the success we have had. Our office is much better known in the community now than it was when we started. The facilities are being used to a much greater extent than we expected. The truth of the matter is that we are doing a lot of work and investigations previously done by the police force.

Mr. MacQuarrie: Are they saving comparable money then?

Mr. Linden: I think they should be, or the system and quality of investigation is just improving. This is really what it was designed to do.

I can give you a very quick indication of the change between the fiscal years 1983 and 1984. During 1983 our office received 102 complaints directly. These are people walking through the door, as opposed to going to one of the police stations or one of the other community places. In 1984 that number went to 144, which is an increase of 40 per cent in terms of intake in our office.

As for requests for review—applications where the police have done the investigation, where it was unsatisfactory and we were asked to do a review—in fiscal year 1983 that number was 37. In 1984 it was 57. This is an increase of 55 per cent.

With respect to the number of board hearings, the number ongoing at the end of the fiscal year 1983 was two; at the end of 1984 there are seven. There are 10 hearings outstanding. It is an indication the system is maturing.

Mr. MacQuarrie: Have we got a tiger by the tail? Is it going to increase correspondingly next year and the year after?

Mr. Linden: The other interesting fact is that the number of complaints—the global number of complaints—has not changed that much in the whole three years we have been in operation. It has stabilized at around 800 or 900. What is happening is that our office is playing a greater role in the investigation and resolution of the same number of complaints. I think this is how the system was designed to operate.

Mr. MacQuarrie: Do you feel you have reached a plateau with these current estimates?

Mr. Linden: As our office becomes better known, I think two things occur simultaneously, but it is very hard to prove it with the numbers. On the one hand, people who might have been reluctant to make a complaint before are coming forward to make it. This would have a tendency to push up the number of complaints.

On the other hand, there is a substantial preventive factor in the existence of our office. That has a tendency to make the number of complaints go down. I think those two things are occurring simultaneously because we have seen over three years the number of complaints being

very substantially the same.

Mr. Chairman: May I be permitted a supplementary before you go on? Mr. Linden, we had the opportunity of visiting your office and talking to you and your staff during the summer. One of the things that sort of bothered me after I left—and we are talking about numbers and how to translate them—was that I got the indication from your staff that you were sort of going out and looking for work.

I think we were discussing the Regent Park situation where they did not come to complain, but your people went out looking for work. We can play with numbers, but as a person who considers himself fairly streetwise because I have been out there on the street for years, I could take you to certain places in the city where I can get you 100 complaints at any time. That sort of bothers me.

I really have no objection to people coming in with legitimate and bona fide complaints to you about the police, but when we go looking for work, it sort of bothers me. That is where the numbers problem bothers me.

Mr. Linden: I am advised that a part of the budget was for a contract study which is currently on hold. We thought we might choose to sponsor that conference. I think an agency in Chicago is now sponsoring the same type of conference that I had in mind, but I do not think it would be necessary. There is an amount in there for that conference that I do not think will be used. I think it amounts to about 10 per cent of that increase. The other fact is that Metropolitan Toronto shares half of the cost.

Mr. MacQuarrie: I realize that, but even-

Mr. Linden: Excuse me, if I may, it was my feeling—and I think the feeling was shared by everybody who was involved in designing the project initially—that there was a tremendous amount of resistance, misunderstanding and mistrust in some parts of Metropolitan Toronto when this project began.

One of the reasons it was established was that there were large pockets of people who were being advised by groups in the community that if they had a complaint to make, if they had an incident with a police officer: "Whatever you do, do not complain. All that is going to happen is you are going to be charged with mischief and you are going to end up in much more trouble than you are in now."

People were legitimately frightened about coming forward with their complaints. That was the atmosphere or climate of opinion within which our office was created. We thought it was a very important part of our work initially to try to break down that resistance and mistrust. We felt it was important for us initially to go into a community and explain how our system operates—not to look for work—so that if people had a complaint to make, they would not be afraid to make it. They would legitimately understand how the process works.

We made some considerable effort to go around the community and explain it. Regent Park was one of those situations. In Regent Park there were serious problems. There still are; they are not resolved. There were a number of incidents that occurred. People who were involved in those incidents were advised not to make a complaint.

The police force, on the other hand, had taken the position, "If they do not come forward with their complaints, what can we do about it?" There was an impasse. The situation was getting worse. In consultation with the chief of police, we decided we would go into Regent Park and try to get the people who had complaints to make them. That is the explanation.

As a result of that, they laid the complaints. They put them in the system. Those complaints are being investigated in the normal way. To some extent the situation has been normalized. There are still all kinds of problems and always will be, but that explains our going around and doing community outreach.

10:40 a.m.

Hon. Mr. McMurtry: If I might be permitted to interject at this time in relation to the issue of volume and the many dimensions that are related to that. I would like to preface my remarks by stating I believe that this project is one of the most important projects being undertaken by the government of Ontario during the nine years I have had the privilege of serving in that government.

I say this from a long history of police community relations. I say this as one who has

acted as counsel for the Metropolitan Toronto Police through several inquiries and royal commissions, as one who has acted as a crown prosecutor and defence counsel and one who has for many years been crucially interested in police community relations, particularly as they relate to minority groups and disadvantaged people.

I would like to say that when Mr. Linden accepted my request to take on this assignment, he took on one of the most difficult assignments imaginable, given the many forces that are involved in police community relations. First, within the police department itself, there is a very strong police association, sometimes a militant police association. The tension that exists and will exist between a strong, highly organized, effectively led police association and the senior officers of the police department is, of course, always at the best of times a modest challenge for police management.

In carrying this process into being and providing leadership for it, one of the many challenges Mr. Linden had was in obtaining a degree of consensus among police management, the senior officers and the police association with respect to the viability of this project. That accomplishment by itself is very significant. That is just looking at the police department.

I might say in the context of the police department that the former chief of police Jack Ackroyd and the police association president generally have been very supportive and have provided some important leadership.

I was both Attorney General and Solicitor General when this project came into being. Having had a long-time association with police forces, not only in Ontario but throughout the country, I was aware, furthermore, of a certain degree of antagonism towards this project by other police chiefs and police managements throughout the country because this was the first time in the history of Ontario and really in the history of the country that there was going to be a truly independent review of citizens' complaints at an early stage.

The Metropolitan Toronto Police were not only very responsible but also provided some relatively courageous leadership in the police community throughout this country by supporting the development of this initiative. This initiative has been the subject of a great deal of scrutiny internationally. As I have said on other occasions, we have had many visitors. Mr. Linden has had many visitors and requests from around the western world in relation to this project.

If ever there is a demonstration of the value of prevention, it can be demonstrated by what has happened in Great Britain where the police-community relationships have deteriorated to a very distressing degree. Lord Scarman, the distinguished law reformer and jurist, in his report on the Brixton riots recommended to the British government that our Metropolitan Toronto Police complaints project be considered by the government as an appropriate model for British policing.

I think this background is important. At the time Mr. Linden undertook this project, police-community relations in some areas of the city were relatively fragile. There were obviously tensions in some of the visible minority communities. There had been some incidents that added some highly emotional dimensions to police-community relationships.

There were some groups that were determined to exploit the situation and create a good deal of polarization and confrontation between the police and some of the community groups. We, in political life, are not unfamiliar with that tactic.

Mr. Renwick: This is known as vintage Attorney General. Unnamed allegations.

Hon. Mr. McMurtry: I could be very specific, but I do not think it would be helpful at this stage of the process.

I mention that because it underlines the importance of Mr. Linden's, and his office's, outreach programs. They go out into the community to demonstrate that their office is capable of dealing with these complaints in a fair, objective, impartial and effective manner. I personally saw the outreach, rather than just sitting back and waiting, as absolutely crucial to the success of the project for the community as a whole, in order to demonstrate to some community groups that there was a fair process available to them.

We can all appreciate that the importance of this in diffusing some of these tensions is incredible. The difficulty with such a project is that one will never be able adequately to measure its value when it comes to prevention, other than by certain obvious criteria, but even the obvious criteria do not represent a true picture in relation to prevention.

The very fact that the project exists obviously represents a significant deterrent to the small minority of police officers who may be inclined, from time to time, to treat citizens unfairly.

Having acted as counsel for the Metropolitan police during the Morand inquiry, I became very familiar with the whole complaints procedure.

There is no question that since the initiation of this project the internal complaints procedure, as Mr. Linden has already stated, has improved immeasurably.

While we must be concerned about the cost of any new government initiative and will continue to be so, I have to say that I bring to this discussion a very biased viewpoint, given my personal history in these matters. I believe that the expenditure, which is shared by the municipality of Metropolitan Toronto, is probably one of the wisest expenditures of taxpayers' moneys that I can possibly think of.

10:50 a.m.

The future of the project is not guaranteed, but I believe that it would be a tragic day for police-community relations in Metropolitan Toronto if it were ever allowed to founder. That is not to suggest that it should not and will not be subjected to the appropriate scrutiny of this committee of the Legislature and, indeed, of the public as a whole.

Mr. MacQuarrie: That is really what I was trying to do.

Hon. Mr. McMurtry: I appreciate that. I am just using your interjection to inject what Mr. Renwick would refer to as a little vintage Attorney General.

Mr. MacQuarrie: Having sat on the committee while the bill was under fairly intensive consideration and while numerous representations were made from various groups in the community, including the Citizens' Independent Review of Police Activities and others, I came to the conclusion that the project certainly had validity. I am not questioning that. All I was questioning was the fairly dramatic increase in proposed expenditures between last year and this year.

Hon. Mr. McMurtry: I am sorry I did not address that directly. I was really looking for an opportunity to interject myself in the discussion. I think Mr. Carter could be of more assistance than I would be, Mr. MacQuarrie, in explaining some of these expenditures.

Mr. MacQuarrie: I understand from Mr. Linden there is a prospect that the increase might not be as drastic as it first appears.

Mr. Chairman: Before we go to Mr. Carter, Mr. Williams had a question on this point. If not, Mr. Renwick.

Mr. Williams: I want to speak to the matter as well, but I would like to hear the response.

Mr. Carter: Mr. Chairman, as has been pointed out, Mr. Linden got to the nub of the

issue. On page 108 of the estimates submission you have it indicates that \$80,000 was allocated for a conference which, as has been mentioned, at this moment is certainly on hold.

I think the general allowance for inflation and salary would constitute somewhere between five and 10 per cent also. Normal growth of our entire budget is about five to 10 per cent in any event. This conference, of course, was a significant amount. I do not have the figure in front of me but it is at least 10 per cent.

Mr. Williams: I came in as you were discussing the financial cost of the operation and I am not sure whether it was determined whether this involved additional personnel from the previous year or not. Was there an additional staff complement?

Mr. Carter: Mr. Linden could answer that more precisely. My understanding would be one or two more staff.

Mr. Williams: That was my recollection from my visit there. Perhaps you could elaborate, Mr. Linden, on the particulars of the staff increase. What were the particular needs for staff enlargement? What were the functions needed to round out the operation?

Mr. Linden: That is why I went through those numbers before. We are finding more and more people are using our office and our staff is becoming more and more involved in receiving and reviewing complaints and so on. The numbers are very high, 40 per cent, 55 per cent. The number of ongoing hearings increased by 100 per cent at the end of this year, compared to one year ago. The hearings are taking up a considerable amount of time.

Mr. MacQuarrie: Going from one to two is 100 per cent.

Mr. Linden: That is the number of hearings outstanding. The problem we have encountered is that, because it is a new process, whenever a hearing is ordered, the officers who are the subject of the hearing are retaining the best counsel available. They are retaining top counsel who raise all sorts of legal objections at the hearings—constitutional, Charter of Rights and Freedoms, challenges, procedural obstacles; everything possible, as is their function, that is their job as counsel for the officers.

Mr. MacQuarrie: All on legal aid?

Hon. Mr. McMurtry: You know how to hurt a guy.

Mr. Linden: It is necessary for us to respond to those legal challenges, and it is taking up a considerable amount of our staff time preparing for those hearings and appearing at them. We administer the hearings, we run them and we are responsible for providing a support staff to the members of the board, the civilian panel that comes to hear the cases.

It takes a considerable amount of staff time to run a hearing. Usually these hearings involve a very straightforward issue and, instead of taking one day to complete, they are going over to a second and a third day as lawyers have a way of spinning things out in order to protect their clients' interests.

Mr. Chairman: I recall some of the conversations we had in your office on that particular subject.

Are you finished, Mr. Williams?

Mr. Williams: I did want to make some comments.

Mr. Chairman: All right, make some comments. Then the member for Riverdale wants a question.

Mr. Williams: Mr. Chairman, as a member of the Legislature who represents a Metropolitan Toronto riding and its constituents, I have certainly followed this whole process with a great deal of interest from the day the whole concept was brought forward at the initiative, I think, of the Attorney General. I have applauded his efforts in having been very much an author of this whole undertaking.

As he has described—and I will not reiterate many of the things he did in a historical sense—what he created at a time when it was most needed was a vehicle that would have a very stabilizing influence in the community, and that has prevailed. I can assure members that this was certainly welcome in my part of Metropolitan Toronto, as I am sure it was in yours, Mr. Chairman, and in those of others of us who represent the Metropolitan Toronto area—in Riverdale as well.

Of course, having an individual of the stature of Mr. Linden as the chairman added that much more credibility to the establishment and operation of this facility. I think it has without question proved its worth. It is a far cry from the ad hoc, self-appointed groups that organized themselves at the height of the crisis, who felt they had to respond if the government was not going to respond, but who did so with perhaps a different approach, a continuing adversarial approach to some extent, which I think did not help but rather polarized some of the problems out there.

The different approach and involvement of government clearly was needed at the time. Clearly it was well thought out and the structur-

ing and setup of the bureau have without doubt proved to be an overwhelming success. I think a great deal of credit has to go as well to the chairman, who has made it so successful.

I was certainly pleased at the opportunity to join with the members of the committee in visiting the facilities and meeting with the staff to get a better in-depth understanding of the day-to-day operations and a complete report on

the operations of the bureau.

Yes, I have heard from some sources there is concern when agencies or arms of government are set up that considerable cost is involved, and they sometimes tend to be seen as growing like Topsy. I have not seen evidence of that, but there has to be a concern that these agencies and boards be cost-efficient like everything else. I am sure this is foremost in Mr. Linden's mind as well, and I think he will continue to be responsible and accountable on behalf of the bureau in this particular aspect of the operation.

11 a.m.

Certainly I hope the work of the agency will continue unabated and with the same positive thrust, direction and response it is getting from the community at large. I have been well pleased, and I think we must continue as a committee to keep in touch with the agency, to lend our support and assist where we can to ensure that it continues to function unimpeded and yet in a very cost-efficient manner, which I am sure it will. I applaud the Attorney General for what has been accomplished, and Mr. Linden for the work of his agency.

Mr. Renwick: Mr. Chairman, it is with no disrespect to Mr. Linden and no disrespect to the Attorney General, to Lord Scarman or to the member for Oriole (Mr. Williams) that I venture to suggest in a still, quiet voice that the jury is still out on the effectiveness of this project.

I think it is a valuable project. I consider it still to be a project, and I consider it is far too soon to make the kind of decision that has to be made with respect to the way in which it functions. I have one very direct concern to express to Mr. Linden and a second one to address to the Attorney General.

This project expires at the end of this year and it was my untutored view from looking at the statute that we had not extended it as yet. I had thought it would require an act of the assembly, but I gather the Lieutenant Governor will be able to extend it without any recourse to the assembly. I assume that to be the Lieutenant Governor in Council, although it is not certain that is the way in which the government operates these days.

If I were a police officer, a member of the police commission or a senior officer in the police force in Toronto, I would be extremely concerned with the opening remarks in the decision of the board in the matter of the complaint of David Edward Footman. I was otherwise engaged during August, but as you know, sir, early in September I wrote and asked for a copy of that decision. Whatever the board was deciding to convey would not have created any acceptance in the minds of the police officers who attended before that board, nor would it create any sense, grudging or otherwise, that they could accept the way in which the board expressed its views in its opening paragraphs.

If any board-or you, sir-is going to categorically criticize the police officers, it has to be done with the understanding that you are speaking to the officers of the force who are going to be about their business over a period of time as continuing police officers. I found offensive the casual comments interspersed with some kind of incredible irony, the castigations and the impressions they have left. I was therefore quite surprised when I saw that John Sewell used those opening remarks in comments in a column on October 10 with respect to both

this office and the police

Perhaps there were some valid points in the columns. I did not study them at any great length, but that board, which is advised by counsel. made these statements:

"Before dealing with the charges, we feel it important to note that we have serious concerns about the reliability of the evidence of several of the police witnesses who gave evidence in this hearing. We will mention three specific instances.

"First, all of the officers who gave evidence about events at the scene were unable to identify any of their colleagues who had discussions with the civilians. These same officers were able to identify colleagues in cars at a distance. One cannot help but draw the conclusion that these officers were acting to protect themselves and their fellow officers.'

If you are going to make that kind of charge in an opening paragraph in a decision against these police officers, all of whom but one were acquitted of the charges against them, you have to be very clear about what you are saying, what the evidence is and the conclusions to be drawn. I am not trying to make this into a technical question of an adversarial proceeding.

"Secondly, the evidence of PCs Colmanero and Horwood was virtually identical in those items they were able to remember and those details they were unable to recall. We were left with the impression that they had agreed upon their evidence in advance."

That is a very serious charge to be made against police officers and to have it expressed in that kind of casual fashion I find to be quite offensive.

"Thirdly, and most particularly, the unique ability of the four officers"-

Hon. Mr. McMurtry: Excuse me. You use the word "casual." It seems to be pretty direct.

Mr. Renwick: "We were left with the impression that they had agreed upon their evidence in advance." If you are going to make that charge, I say that you cite chapter and verse of the evidence on the basis of which you are coming to that conclusion.

"Thirdly, and most particularly, the unique ability of the four officers that testified about the events in the garage at 11 Division to recall the specific details of those events as compared with their inability to recall other and more significant events challenges their credibility.

"This is not the first time that this concern about the police organizing their testimony has been raised and, in the long run, it reduced the value of the police testimony."

If those conclusions of theirs were supported on the evidence, they should have put the evidence on the record. If that persists, you will never establish the respect of the police officers for this method.

It then goes on to deal with the individual cases and I am not particularly interested. I do not know whether the facts are in dispute or on appeal but I believe an appeal has been taken, in any event, on a legal matter.

I wanted to express, for whatever it is worth, the sense I have about what, to me, are casual, broad, sweeping statements that may or may not be supported by the evidence. I will assume for the moment that it was. If you are going to say that about police officers, you have to put it down and draw the conclusions that you draw from the evidence which is given. If I were any one of those officers, I would not have gone away feeling that I had been—even if a person on his evidence has a difference of opinion with the tribunal as to the conclusions that it draws, that does not alter the fact that you can walk out and say you were dealt with fairly.

I find those remarks very upsetting. I do not know whether other persons reading it would be as sensitive to those comments as I was, but I wanted to express my view to you about that. **Mr. Linden:** Shall I comment on that, Mr. Renwick? I do have a comment.

Mr. Renwick: Certainly.

Mr. Linden: I am troubled by your use of the word "casual." Other than that, I agree with many of the things you said. It is a very difficult thing to conduct these hearings, but it certainly was not a casual hearing. The hearing was conducted in an extremely formal manner.

Mr. Renwick: I was speaking of the method of expression as casual. I am not talking about the hearing. I understand it was six days.

Mr. Linden: Everyone was represented by counsel.

Mr. Renwick: I saw that they were represented. I was using it with respect to the way in which the expression was used and the language that was used. To me, it was casual expression.

Mr. Linden: I understand your point. The other thing I would like to say is that the board that made the finding was made up of three civilians. The chairman of the panel is a highly regarded lawyer and a member of a large law firm in Metropolitan Toronto.

Mr. Renwick: I know that.

Hon. Mr. McMurtry: A former judge. 11:10 a.m.

Mr. Linden: Yes. The other two members of the panel, one nominated collectively by the police community to sit on the board and one nominated by Metro council, were unanimous in their decision.

Mr. Renwick: I know that.

Mr. Linden: All members of the panel were in agreement with respect to the decision.

Mr. Renwick: I know that. I understand that. I know I have the whole force of the institutions of society opposed to the view I am expressing. I have great respect for each of the individuals.

I am simply saying that if you want this to work, I am quite content to have them make those specific charges; but if they have had a six-day hearing and they have the evidence on which they are drawing conclusions that officers are lying before that board, then they had better put it down on paper. I would walk out thinking that my reputation as a police officer had been badly sullied without any—

Mr. Linden: Without any what? This is the issue, Mr. Renwick. The officers against whom those allegations were made were subject officers at the hearing, represented by counsel, with every opportunity to respond to every allegation that was made against them.

Mr. Renwick: I understand that.

Hon. Mr. McMurtry: It would appear from those opening comments, though, that this was merely an expression of opinion by the tribunal as opposed to a more definite, tangible expression. They might have come to that conclusion on the basis of a witness's demeanour; it might have been a number of things.

Mr. Linden: As well, Mr. Renwick, all the evidence that was taken during the several days of hearings was recorded. There is a record of all the evidence; all the evidence is available.

I can just tell you that after the hearing concluded—and I read that decision with as much concern as you did—I sent a copy of the decision to the chief of police with the suggestion that he conduct an internal affairs investigation into the allegations they made.

Mr. Renwick: With great respect, I do not want to pursue that. I do not think the chief of police should be asked to investigate those allegations. If the evidence supported the view of the three points that were made in what I referred to as those casual, throwaway comments at the beginning, it should have been there in chapter and verse, and then it should have been sent to the chief of police for whatever remedial action he felt was necessary.

Those go to the heart of the policing system. If those generalized statements are going to be made, with this other one about this not being the first time police have organized their testimony, then I think it has to be made in black and white and made very clearly, or in the long run we are going to do a disservice to the very goal we are trying to achieve by this.

Mr. Breithaupt: So you are looking for more precision in the details of a judgement to obviate the necessity of further investigations by having it fairly up front, with the comments made and supported in the decision. That seems to be the concern, as I gather it.

Mr. Renwick: I do not think I can express it any more accurately. I think what they were saying was that the officers were lying before the board.

Mr. Breithaupt: Or were in collusion.

Mr. Renwick: In collusion.

Mr. Linden: Again, this is not the first time in our history of the last year or two that we have had a similar experience. The other ones were with respect to judicial officers as opposed to our board. We have had, I think, four or five instances during the last year in which a judicial

officer has made comments of a similar nature after the conclusion of a trial.

Mr. Renwick: Yes, I understand that.

Mr. Linden: Those matters were complained about by individuals in the community as third-party complainants, and those matters are being investigated at the present time.

Mr. Renwick: I understand that.

Mr. Linden: Very similar types of statements made by judges—

Mr. Renwick: Judges, because they are judges, are entitled and have the right in whatever case they are doing to make whatever comment they deem appropriate on what has been done. I do not think it was ever intended for a board such as this to make a statement that, "We were left with the impression that they had agreed upon their evidence in advance."

If they want to say, "The evidence is this, this and this, and we conclude that they had agreed on their evidence in advance and that is not a practice which can be condoned," fine. If they wanted to say, "One cannot help but draw the conclusion that these officers were acting to protect themselves or their fellow officers because they were not able to identify certain people but could identify others;" they were saying they were lying before the tribunal.

Mr. Linden: I appreciate your remarks. This is a civilian board; they are civilians. They are not judges, they do not have a great deal of experience in the conduct of a judicial-type inquiry. Generally speaking, considering the difficulty under which they operate, I think the tribunals have been conducted very well and the decisions have been very well received.

I appreciate the remarks you are making.

Mr. Chairman: Thank you, Mr. Linden and Mr. Renwick. Are there any further questions? If not, we seem to be a little—

Mr. Breithaupt: Yes, Mr. Chairman, Mr. Takach was going to make some comments on the-

Mr. Chairman: I meant for Mr. Linden.

Mr. Breithaupt: —on the videotape experiment project, guideline rules and other themes that my colleague, Mr. Renwick, and I had raised as this matter gets now under way.

Mr. Takach: Thank you. Perhaps, at the outset, I shoud just underscore what Mr. Linden had to say about there being no like project anywhere else, because that, in part, also goes to Mr. Renwick's comment on the need or desirability for further study.

There has been study in which we have been involved over at least the last four years and that study has been conducted internally by members of our ministry as well as by members of the Metropolitan Toronto Police and the Ontario Law Reform Commission.

There is a great difficulty in looking at the United States experience. I think the US experience is generally misunderstood by the proponents of the videotaping of confessions

scheme or pilot project.

One of the difficulties is the fact that their system of justice down in the United States is completely different. The role of what is thought to be a counterpart but is not really a counterpart, the district attorney or the assistant district attorney, is really quite different in the United States than the role of the crown attorney or assistant crown attorney in Canada. I think you are all aware that the district attorney has an investigative role to play and, indeed, has on his staff a number of investigators and assistant district attorneys who regularly play parts in investigations that crown law officers in Ontario and Canada simply would not play.

In the US studies, the district attorney is actively involved in the videotaping of the confession; in fact, he is the interviewer. In the Bronx or the New York study, he is the individual who conducts the examination. As Mr. Linden pointed out, that examination or statement in front of cameras is not a statement in the first instance; it is a statement that is obtained or recorded later, after the accused person has given a statement and has consented to have it videotaped.

11:20 a.m.

The second main difference, and a very important one, is the fact that—and this is important when one addresses the reason for or the movement towards videotaping of confessions in Ontario or in Canada—the objective in the United States is not to stem allegations of police brutality, it is to advance the case of the state or the prosecutor in court and to confirm the evidence that has been otherwise obtained. I suppose it is to be of assistance in demonstrating to the accused and his lawyer subsequently that there is no point in proceeding and that a plea of guilty should be entered.

As I indicate, there are some vast differences between the United States system and our system.

We have been looking at the possibility or desirability of videotaping confessions since at least 1979 and I think before that. At that time we

sent an individual down to the United States to study the situation. One of our crown law officers went down, dealt with the district attorney's office in one of the New York suburbs—it was Queens or the Bronx or somewhere—and became familiar with the project. It was at that point that we had our first glimpse at how it operated.

We saw distinct differences between the American justice system and ours, sufficient that it was our view at the time that we should not move towards a permanent system or setup of videotaping confessions in the various police departments or branches of police departments in Ontario. Basically that was our recommendation.

Between 1979 and 1982, from time to time the Attorney General would receive letters from members of the defence bar advocating the instituting of a procedure of videotaping confessions. The move towards such an endeavour came from the defence bar. The reason for its stated request was either to demonstrate there was police brutality or to demonstrate there was none. Implicit in a lot of assertions that came to our ministry was the fact that there was some improper conduct going on and that if you moved to a system of videotaping confessions, you would either demonstrate that fact or eliminate coerced, forced confessions.

The petition in that regard was not from one or two people; it generally had the backing of the Criminal Lawyers Association and people who would regard themselves as leaders of the defence bar.

We studied the matter again in 1982 internally within the ministry. One of our crown law officers studied the New York situation, studied everything that had been written or set out on the matter. Again, it was our view that we could not recommend that a system be instituted on a permanent basis in any jurisdiction, and mainly in Metropolitan Toronto because that was where the issue was arising that the program be set up.

Again, I should underscore the position of the crown and police at that time. The police officials were not enthusiastic. They did not regard it as solving any of their problems or advancing the police or prosecutorial case. At the same time they did not view it as an answer to allegations of police brutality, for reasons Mr. Linden mentioned earlier. As he asked, where do you draw the line?

You have to make some hard decisions. It goes from videotaping the interview room, the police station in general, then the garage, the police cruiser, the scene of the crime and every place the police might choose to stop on the way. In our view, there was some real reason to doubt whether such a system would be the answer that certain advocates of the system said it would be.

The issue arose again most recently in the spring of 1984. By this time members of the bench had also publicly and privately supported at least a pilot project. A legitimate concern of theirs was that it would certainly shorten trials in more than a few cases if there were not lengthy voir dires going into weeks on the admissibility of statements allegedly given by the accused person. There was a feeling that if these statements were videotaped that would certainly say something in favour of eliminating trial delays.

At the same time we had additional letters. I think at this time the president of the Criminal Lawyers Association again raised the issue and wanted to advance it. He put that proposition forward, I think in a letter to us, but in any event at the Bench and Bar Council, which is a quarterly meeting of members of the judiciary, defence bar and ministry representatives. The matter was on that agenda, was raised there and is still on the agenda.

Some time after that, Metro Toronto, at the behest of the Metropolitan Board of Commissioners of Police, or one particular member thereof, again went down to the United States and studied the matter in New York, Miami and Indianapolis. All the issues that had arisen in the earlier years arose again. It was clear the United States system was different. The objectives of the police, in so doing, were different from the objective of stemming allegations of police brutality. It was also clear that even those jurisdictions that engaged in the videotaping of accused persons did it for a very limited number of offences, basically serious felonies, and more particularly homicides or serious assault cases.

In any event, after that study and because of the impetus from the judiciary and defence bar, it was felt that whatever our own reservations might be—your concern, Mr. Renwick, was certainly taken into account. We had that on our own. Once you get a project going, it is difficult to stem it. Notwithstanding that, it was very difficult to say that a particular proposal that had the support of at least certain elements of the judiciary and the defence bar should not be further studied.

Everything that existed in the United States had been looked at and everything that existed in other jurisdictions had been read about. There was not an awful lot of further study that could

take place, except a pilot project. For this reason, that it was at least an important topic worthy of exploration, we gave support to the test project, and because of the law reform commission proposal and the recommendations from Mr. Linden from time to time.

I had been liaising with the Metro police on the project, with Deputy Kerr, and the proposal as I understood it a couple of months ago—and I am in the process of getting an update on it—was that it be confined to 4 District, 41 Division and that it would relate to murder, serious assault or wounding and sexual assault, if I recall correctly.

Mr. Chairman: Mr. Breithaupt, do you have any further questions?

Mr. Breithaupt: No, I appreciate the information. I recognize the difficulty of my colleague, Mr. Renwick, in preferring to have the guidelines and patterns clearly there in advance of the procedure. I accept the fact that a pilot project has to begin somewhere. With the monitoring I am sure this committee and other interested groups will have, together with the sense of the Metro scene Mr. Linden will bring to the development in this area, I hope we will strike the balance I am sure we are all seeking.

11:30 a.m.

Mr. Renwick: Has the pilot project been reduced to writing, with respect to what they are doing and what the project is, so they are starting somewhere and can look at what they are trying to accomplish, or is it just drifting along in someone's head?

Mr. Takach: I believe it has, Mr. Renwick, and I have yet to receive the—

Mr. Renwick: I certainly would like to see a copy of the project.

Mr. Breithaupt: There should be some statement of the principle, at least, concerning what the parameters and the expectations are, together with the length of time and the framework of procedure so that everyone knows what the rules of the game are going to be and there are accordingly no unfortunate surprises.

Mr. McKessock: Mr. Chairman-

Mr. Chairman: Does this have to do with this particular vote? If not, I will get to you right away, Mr. McKessock.

Mr. McKessock: I will tell you what it is about. I am not sure what vote it comes under.

This past summer I spent considerable time on a task force looking at the justice system and correctional institutions, and I would appreciate it if I could have some time to discuss with the

Attorney General some of the varying problems in the justice system that I found as they relate to correctional institutions.

Mr. Chairman: We can get to that. Let us deal with this particular item. We had originally asked Mr. Linden to come for half an hour; we have spent an hour and a half. Thank you very much, Mr. Linden. We appreciate your coming and being forthright.

Before we go to the other vote I would like to pass item 5. Shall item 5 carry?

Item 5 agreed to.

Vote 1507 agreed to.

On vote 1506, courts administration program:

Mr. Chairman: Now we will revert to vote 1506. Before we go to Mr. McKessock: Mr. Renwick or Mr. Breithaupt, have you any comments?

Mr. Renwick: I certainly will defer to Mr. McKessock.

Mr. Breithaupt: I, too, defer to Mr. McKessock.

Mr. Chairman: We will now entertain Mr. McKessock's question.

Mr. McKessock: Mr. Chairman, I would like to bring to the attention of the Attorney General and his staff just a few of the glaring problems I found this summer as I looked at the justice system and correctional institutions and at the problems I could see as they relate to corrections.

The courts are the one problem that hit me right off as I toured the Don Jail and asked to be shown a couple of the files of offenders in the prison. When they rolled a couple of files over the computer screen for me and I noticed remands up to eight or nine times, I was very disturbed to see that 60 to 70 per cent of the detainees in the jail were on remand. Overcrowding in the detention centres is a big problem, and it appeared that the remands were causing a lot of the problem.

I wonder what the ministry has in mind to correct this situation. I know that when you talk to lawyers they say there is not a lot you can do about it, that this is the system and this is the way it works.

I suggest that maybe we should have a limit on the number of remands. Of course, lawyers will ask, "What happens if his lawyer dies or his mother dies or something and there are no remands left?" If each one had a certain number of remands, they would have to keep one remand in reserve for something like that.

As an outsider looking at the system I thought this looked like a big problem. I know that people

within the system may not see it that way, but I know as a farmer that 20 years ago if we on the farm had been told that we should increase our efficiency by 200 per cent, we would have said, "You are crazy, and we cannot do it;" yet in fact that is what has happened on the farm during the last 20 years.

I am quite convinced that the courts can improve their efficiency, and this remand part of it, I feel, is one area in which it can be done. I would just like to hear your comments concerning what you feel can be done or what you have in mind.

Hon. Mr. McMurtry: The whole issue of efficiency in the courts and the problem of remands is a problem that has troubled me during the nine years I have been privileged to serve at this post. As a result of that experience I have come to the realization that, unfortunately, there are no quick or simplistic solutions.

In my view, the number of remands does undermine the effective utilization of court space and the resources that are available. There is no question that not only has this always been a problem for the justice system, but I am afraid that at least to some extent it always will be, given the special, peculiar nature of the system.

That does not mean that bold new initiatives should not be attempted. For example, while there are even some people in my ministry who are a little sceptical, I have long been of the view that some form of speedy trial legislation is required at the federal level by amendments to the Criminal Code. I am also very concerned that if that is done, it not be done in a rigid, impractical fashion, but in a fashion somehow to bring additional pressure on the system to deal with these cases more expeditiously.

The justice system will never be efficient in the sense that we use that term in relation to other institutions. If efficiency became too high a priority, some of the fundamental principles related to a just system could be undermined. When it comes to the whole issue of remands, there are special problems.

It should be pointed out that the decision whether to allow a remand is solely the decision of the presiding judge. That decision can and will be influenced by submissions that are made by crown counsel and defence counsel, but the actual decision remains solely within the adjudicative function of the presiding judge. That is a decision that is and must be exercised, as you can appreciate, in a completely independent manner.

Given some of the uncertainties surrounding the trial process, if the federal Criminal Code were to be amended to say that there would only be a certain number of remands, it might cause significant problems and I am afraid that remands would likely be very lengthy remands. I think the direction to go is some form of speedy trial legislation, but it has to be very carefully done or it could be operated in a manner that was clearly contrary to the public interest.

11:40 a.m.

The new Charter of Rights and Freedoms provides for the right of an individual citizen to be tried within a reasonable time. As a result, some cases have been dismissed, to use the vernacular thrown out, by the appellate courts if there appears to be undue delay that is not attributed to the requests of defence counsel. In parts in the province, some of the defence counsel are, I am afraid, overbooked and there is a real problem of finding yourself in more than one court on any particular day.

All of these issues, I might say, are issues that are constantly under review by various bodies. In particular, the Chief Justice of Ontario presides over a body that is known as the Bench and Bar Council, where there are representatives of the judiciary and the practising bar, as well as the Attorney General. Certainly they have spent a good deal of time in recent years talking about the problem of remands.

It has been our experience, and it was my experience as a lawyer, that people in custody are given priority. Their trials are usually given and should be given priority with respect to the trial date and an early trial.

My own view is that many of these remands are requested by defence counsel. Some people will say, "Well now, you have been Attorney General for so long that this is a biased viewpoint." I do not have any statistics to prove it, but the great majority of these remands are requested by defence counsel and a lot of these inmates awaiting trial have had a number of remands to which they have readily consented.

In many cases, they expect to be incarcerated for some period of time after disposition of their trial and for one reason or another they are not unhappy to remain in the holding facilities pending the trial of the action. The holding facilities may be a little closer to the community in which they live than their ultimate destination.

Now the ministry and others have been continually reviewing this and we will certainly seriously consider any suggestions anyone has. We agree with you, and what we have been trying to do in some parts of the province where we have been able to get the additional resources,

is go to this whole issue of the trial within 90 days.

I believe there will have to be legislation and I am afraid that can only happen at the federal level. I think the details have to be worked out carefully because I have always been prepared to admit there has to be a greater degree of discipline within the system. I am afraid this will only come within legislation.

I am obviously concerned, since the legislation is clearly in the public interest, that it does not interfere with the integrity of the justice system by undermining the rights of the accused to be properly represented and of counsel to be properly prepared. The clear public interest is in having these cases dealt with within a reasonable time. There can be no question about the importance to the public as a whole.

Mr. McKessock: You mentioned you would not want to undermine the justice system. I notice that some have been on remand eight or nine times and have been in there for up to eight months before going to trial. I do not think there is anything too just about that.

Hon. Mr. McMurtry: But for many of these cases, though, that is at the request of the accused or his counsel.

Mr. McKessock: I realize that.

Hon. Mr. McMurtry: If someone is awaiting a trial on a very serious case, such as murder, as a former defence counsel for many years I will say quite frankly there are times when you are not in any great hurry to get to trial.

The truth of the matter is the delay usually works to the advantage of the defence—not always, but usually. There is always the possibility that witnesses become unavailable and testimony becomes perhaps a little more uncertain or unpredictable.

Mr. McKessock: I realize it can be requested by the defence or the crown, but I am not so sure that is in the public interest. I am looking at it from the public interest standpoint, that having them in jail—as you say, they are going to be there or in a correctional institution, but it is much better that they be in a correctional institution than in the detention centre where they are getting no rehabilitation.

We have to realize these offenders are eventually going to be back with us and I think the sooner we get them onto a rehabilitation program the better. That is not happening while they are on remand.

Mr. Chairman: Excuse me, but the fact is a person is in a detention centre because he has not

been convicted of anything. Are you going to rehabilitate him before you convict him?

Mr. McKessock: That is another problem. If they are not guilty, then they are sitting there on remand up to eight months. There are two problems: if they are guilty, they should go into a detention centre; if they are innocent, they should be out. It is a problem however you do that.

Mr. Chairman: You have to put them somewhere before you get them to court. That is what a detention centre is for, is it not? That is the way I interpret it.

Mr. McKessock: I do not feel a detention centre is the place to keep an innocent person. Nor do I feel it is a good place to keep a guilty person.

Mr. Chairman: Yes, but if a person is charged with something, he is innocent until proven guilty. You have to do something with that person before he gets to court.

Mr. McKessock: That is right. I agree the detention centre is used for that purpose. What I am arguing is that the accused person is kept there too long and it appears the remands are one of the things keeping him there.

Hon. Mr. McMurtry: Mr. McKessock, we applaud the sincerity and the energy you have committed to your efforts during this summer. In this respect, the Deputy Attorney General is also the former Deputy Minister of Correctional Services, so he has the unique advantage of seeing this from both vantage points. Perhaps you might like to hear from him as well.

It is a very difficult and complex issue and we agree it is a very important issue.

Mr. Campbell: It is a very serious problem. You have identified a very serious problem.

The difficulty is, if someone is on remand, say in Metro West Detention Centre, the Toronto jail, or Metro East Detention Centre, depending on the reasons for the eight or nine remands, which it has been noted are often at the request of the defence, the alternative to keeping that person in a detention centre here would be to send him to Maplehurst or one of those places.

There are a couple of difficulties there, one of which is mixing people who have been convicted with people who have not been convicted. Another very practical problem is that there are very few defence lawyers who would want their clients in Maplehurst, Guelph or some place such as that.

Mr. McKessock: I am not suggesting you send them there before the trial. I am not suggesting that.

I will leave that area. I appreciate your responses. I just want to mention one other area, and I appreciate the minister's action on the drinking-driving question. I have received letters from the minister about his efforts to set up committees in the municipalities. I just wanted to draw to your attention that I noticed when I was talking to the offenders in the institutions that alcohol is their second-biggest problem.

They tell me jobs are the most important thing out there in society, alcohol is the next problem and drugs the third. I would say that 99 per cent of the offenders I talked to would list the problems of society in that order.

11:50 a.m.

As to impaired driving, I just want to mention I do not know what you are going to do. I know you are actively working in this area to try to improve that situation on the highways.

In our area you can be caught for poaching perhaps as quickly as you can be caught for impaired driving, because the rivers and fishing are very good and sometimes that happens. The Game and Fish Act is very strict on a poacher.

In fact, you are much better off to be caught impaired than to be caught poaching fish, because for the latter they take your fishing pole, your fish, your car and everything you have. If you are caught impaired, the next morning you get your car back. With poaching you do not. In fact, they can sell it if they like. They do not have to give it back at all.

I wanted to draw to your attention the differences in the charges within the government in the different areas.

Hon. Mr. McMurtry: You are making a very interesting point, that we seem to be more concerned about our fish population than our human population.

Mr. McKessock: I will leave that with you.

I will move on to the other point I want to bring up. It relates to the 50 to 60 per cent of the offenders in correctional institutions who are repeaters. That is a problem we have to look at. It is a problem and it is there. Why is it there?

I have an individual case that occurred in my riding; I think it points up the problem very well. I was putting together this letter to send to you. I decided I would bring it this morning, read it to you and then give it to you with the background information so you could take action on it. It is short.

"Dear Roy:

"You are probably aware I headed a task force this summer looking at the justice system in correctional institutions. I found our courts are burdened and our detention centres overcrowded with law offenders. Looking at the system and how things might be changed to benefit society, I felt more has to be done in the area of rehabilitation and integration of the offender back into society. I found that, in the majority of cases, the offender rather than being helped back into society was dumped back in and often became very frustrated. This may account for the fact that 50 to 60 per cent of the inmates in jail are reciditives.

"With the above in mind, I bring to you the case of Richard Stephens, who lives in my riding with a wife and three small children. Richard was driving a refreshment vehicle for his brother in Mississauga when he was stopped in August of this year by a licence inspector and told that, because of a bylaw passed a year ago, each operator as well as the owner must have a refreshment vehicle licence and that he must apply for one. This he did and was turned down. Richard appealed the decision to the appeal committee of council and was refused again. Reason for refusal states, 'To issue a licence would be contrary to the public interest.'

"I am enclosing a copy of an October 13, 1984, letter sent to me from Richard Stephens with attached documents. I would like to draw to your attention Richard Stephen's letter to the appeal committee of September 10, which outlines Richard's experiences and capabilities and past record in the catering and refreshment business. I want also to remind you that Richard was working in Mississauga with his brother's refreshment truck, doing a good job for the public, when he was asked to apply for a licence.

"As you can see, the real reason Richard Stephens was denied a licence was because he is on parole. They suggest that he reapply in 1986, when his sentence is completed. Is this the way we integrate offenders back into society? What is this fellow supposed to do for the next year and a half?

"What is his wife and three small children supposed to do? Now you see what I mean by dumping offenders back into society. The law was willing to dump him back into society, but not willing to assist him. He is willing to work at his profession and support his family. I am beginning to understand why 50 to 60 per cent of offenders in prison are repeaters.

"I would appreciate it if you would intervene on behalf of Richard Stephens and his wife and children, and on behalf of society to try and turn the corner on this problem of integrating the offender back into society. Hon. Mr. McMurtry: You have not seen this letter yet. You are delivering it.

Mr. McKessock: I am delivering it.

Hon. Mr. McMurtry: Right.

Mr. McKessock: You are familiar with this case because the Provincial Secretary for Justice (Mr. Walker) and you have used it to downgrade the federal parole system.

Hon. Mr. McMurtry: He was the one who was involved with Mr. Muglia.

Mr. McKessock: That is right.

Hon. Mr. McMurtry: I will reiterate what I said in that particular case. I believe the parole board made a mistake, a mistake that I think has done great damage to the credibility of the parole board. I think it has undermined the administration of justice.

Mr. McKessock: I would appreciate it if you would read the documents before you say that again, becuase I feel you will change your mind.

Hon. Mr. McMurtry: No, I assume these documents may indicate that, apart from this very tragic incident in which a man was brutally kicked to death as the result of an unprovoked attack, Mr. Stephens, apart from this horrible situation—

Mr. McKessock: The court said it was the same as a blow by a boxer, the same situation as in boxing.

Hon. Mr. McMurtry: That is not my recollection of the facts.

Mr. McKessock: The facts are in there, from the doctor and the court.

Hon. Mr. McMurtry: The fatal injuries were sustained by the man being kicked in the head while he was on the pavement, as I recall. The trial judge and the Court of Appeal took into consideration the fact that apparently a lot of very good character evidence was introduced in court on Mr. Stephens's behalf. The Court of Appeal in increasing the sentence to a penitentiary term, as I recall, stated that the increase would have been significantly greater had it not been for all the good character evidence and the fact that Mr. Stephens appeared to be an excellent candidate for rehabilitation.

All of these factors were taken into consideration in increasing the reformatory sentence to how many months?

Mr. Renwick: Thirty-six.

Hon. Mr. McMurtry: To 36 months.

Mr. Renwick: From 20 months to three years.

Hon. Mr. McMurtry: From 20 months to three years. The unprovoked killing of this man would in other circumstances have warranted a much longer sentence, but because of all of this very impressive evidence the Court of Appeal said it was only going to increase it to three years.

Correct me if I am wrong in any of my recollections of the precise dates, but one does not have to be very imaginative to understand the public concern when a person whose otherwise good character has already been given great weight by the appellate court in handing down a sentence that was pretty minimal in the circumstances is out on the street about seven months after incarceration.

I believe very strongly in the whole business of rehabilitation, and I have been for many years a member of the board of the St. Leonard's Society of Canada, which is very active, as you know, in rehabilitation projects. I am not particularly bloody-minded when it comes to some of these issues, but I feel just as strongly now as I did at the time I wrote to Mr. Kaplan expressing my very grave concerns.

Mr. McKessock: I appreciate that. 12 noon

Hon. Mr. McMurtry: There was one hotshot spokesman for the National Parole Board who referred to this tragic crime as a "one-shot effort, no big deal." Well, explain that to Mr. Muglia's family. Those people did more to bring the administration of justice into disrepute in this one case than they can possibly imagine. I am very distressed by it, because I know there are a lot of very committed people who work hard to represent the public interest as they see it.

Mr. McKessock: I appreciate that, but that is not the issue.

Hon. Mr. McMurtry: That is the issue for me.

Mr. McKessock: We are grasping at straws. I want to go into detail.

The fellow has been put out on parole. That is the law. While he is out on parole he wants to go back to his old business, which I assume we want him to do, to be integrated back in society. He tries to do that. He has to obtain a licence. In fact, he was driving his brother's truck in Mississauga, unaware that he had to have a licence. An inspector came along and said, "You must have a licence, so you must go and apply." So he did.

He was doing a great job for the public. He was turned down for the licence; against the public interest. He was doing a job for the public at the time he applied for the licence, showing he was

capable. He has been in this business for seven or eight years or more—all his life. What I am saying is that he did not get his licence because he is on parole and that is not the way the system should work.

Hon. Mr. McMurtry: I think you have a valid point of view in that respect.

Mr. McKessock: Do you agree with me that if a person is out on parole, he should be integrated back into society? He is trying to help himself. Society is not trying to help him.

Hon. Mr. McMurtry: I agree with you because of the circumstances. For example, if a child molester were out on parole, I would not want him working on a playground, but it would depend on all the circumstances.

Mr. Breithaupt: In this particular instance it may be that a certain number of licences were decided by city council to be sufficient for that community and no others were granted. If everyone was being treated equally in that sense, then that is a valid public policy decision. That is if they said, "We need 100; we do not need any more," or something like that.

However, if others were granted licences and this was denied as a social decision of further punishment or of double punishment or a view that "We will show this person that we disagree with his being on parole," because of the offence which has been discussed, then that kind of a secondary or double punishment is something that should concern all of us.

Whether this man should be out on parole or not is certainly one issue, but if he were discriminated against because of an offence, because he had a criminal record which did not relate to the function he is performing—and I agree with the schoolyard example which has been given—then there seems to be a valid concern here that he becomes an individual in double jeopardy.

Mr. McKessock: I want to point out that I am not trying to be—

Hon. Mr. McMurtry: The principle you bring up is a very valid one. I am not quarrelling with what you said and with what Mr. Breithaupt has said.

Obviously I disagree very strongly with the fact that this man is out on parole, but the principle of denying an individual a licence which would allow him to work, if it cannot be shown that he would represent a danger to the community as a result of being given this licence, I agree with you that—

Mr. Breithaupt: If other licences may be given to other people.

Hon. Mr. McMurtry: Yes. It is a troubling-

Mr. MacQuarrie: I think it depends on the circumstances of the individual situation. For instance, if he had been a taxi-driver before he went in-most municipalities, through their police commissions, include a provision that taxi-drivers be of good character and so on, in establishing criteria.

Mr. Breithaupt: They may also again have a maximum number and so anyone applying would be turned down. If everyone is treated equally in that respect, that is a valid exercise of public policy as I would see it. A number can be set that is sufficient to the community.

Mr. McKessock: I want to point out that he was told to reapply after his parole was completed. That tells you something.

When I started talking about this, I said I was bringing it to your attention because 50 to 60 per cent of the offenders in prison are repeaters. I am not trying to befriend the offenders. I am looking at it from society's standpoint.

What is this fellow going to do for the next year and a half? Is he going to end up being one of these repeaters, or is he going to be integrated back into society?

I know if he becomes a repeater, he is going to cost you and me money. We are going to be better off if we can get him integrated back into society, leaving aside whether he and his family are going to be better off.

Mr. Chairman: Anything further on this particular matter? I know, Mr. Renwick, we have discussed this Muglia case in detail at an earlier meeting. You were quite involved with the original transcript, as I recall.

Mr. Renwick: I have tried to follow the comments of the ministers.

Mr. Chairman: It was very interesting at the time.

Mr. Renwick: I do not accept the Provincial Secretary for Justice's view of the parole board perpetrating crimes.

I have followed it because the Muglia case and the punishment of Mr. Richard Stephens bothered me. I still do not pretend to understand it; I even think the Court of Appeal—

Mr. Chairman: It is obvious that you and others agreed to disagree on that particular occasion.

Mr. Renwick: I think Justice Martin, in the decision of the Court of Appeal, had a statement

to make that made me believe that he was treated very leniently. Anyway, I dealt with the Solicitor General (Mr. G. W. Taylor) and the Provincial Secretary for Justice on that case. I was going to deal with the Attorney General on it, but anything I have said is already on the record.

Mr. McKessock: If anyone wants they can have a copy of that information I have just given the minister. This is not an ordinary case and should not be set out as an example. It is like when someone skips parole; it makes headlines in the paper. There is nothing said about the other 150 who do not.

Mr. Renwick: I am a great one for giving gratuitous advice. I think the only right he would have here is if we can prove a case of discrimination under the Human Rights Code. There is the very matter; I mean, all John Riddell said was, "Am I supposed to hire on my farm a fellow who has just been charged with and acquitted for arson?"

Mr. McKessock: The difference in this case is he is going to be self-employed. No one has to hire him. He is willing to go out on his own.

Mr. Renwick: It really is not a bad example. One of the very positive reasons that was given for what I consider to be lenient treatment was with respect to the family business.

Mr. McKessock: He is supporting his own family and I do not know what is going to happen if he cannot continue to do that.

Mr. Chairman: We agree it is a complicated issue, and we would like to go on.

Mr. McKessock: We just wanted a response from the minister as to what he might do in this case.

Hon. Mr. McMurtry: I will look at the material and then write to you, Mr. McKessock.

Mr. MacQuarrie: Mr. Renwick's suggestion to appeal to the Human Rights Commission might be in order.

Mr. Breithaupt: If there was discrimination—

Mr. Chairman: If there was, and it can be proved.

12:10 p.m.

Mr. McKessock: I expect that is a possibility. Would that come under legal aid, Bob? These people do not have money.

Mr. MacQuarrie: It could well.

Mr. Chairman: Gentlemen, the time is moving and we are on vote 1506. I know there were some questions. Mr. Breithaupt indicated that he has been—

Hon. Mr. McMurtry: Mr. McKessock has introduced some very interesting issues into the estimates and I appreciate hearing from him.

Mr. Chairman: I think he has made his concerns known to you, and you had agreed that you will respond to him.

If Mr. Renwick has any questions on vote 1506, if not, there are some—

Mr. Breithaupt: I had a good opportunity this morning. There was one theme I raised in conjunction with Mr. Renwick with respect to the bathhouse raid charges and the time which has gone by.

I had referred to that article in the Globe and Mail with which the Attorney General was familiar—his advisers certainly were—which cited that some three and a half years had gone by with the charges still outstanding and at great financial cost to both the justice system and to the individuals. The charges, with respect to damage to reputation and other matters, would also have a certain cost.

I am interested in hearing from the crown law officers with respect to the reason this matter has gone on for so long. Whether the whole event should have occurred in the first place is entirely another matter and, no doubt, will be with us for years to come in our discussions. However, to think that this period has gone by without any resolution of the situation does seem to be a rather extreme delay which does not do the system any credit.

Mr. Chairman: Thank you, Mr. Breithaupt. The Attorney General was going to reply to a number of issues that Mr. Renwick and you both brought up. If you wish, he could start with the bathhouse issue.

Mr. Renwick: Since the time is running along, there are a couple of things I want to raise. Could you bring us up to date on what the decision will be on the question of salaries for provincial court judges? I do not pretend to be intensely knowledgeable about this, but I have been interested in it over the last four or five years.

At April 1, 1984, as I understand it, county court judges' salaries went up to \$82,600, plus \$3,000 for the extrajudicial sevices which, I think, is \$85,600. Then, there is some formula for increasing at April 1, 1985. It is my understanding that at least a pacing arrangement between the provincial court judges' salaries and the county court judges' salaries, let alone the question of parity, was going to be a very real guideline. Yet, provincial court judges had no change for something over two yers, and the

differential in absolute dollars may be even greater than it has been at the present.

Where are we on that issue?

Hon. Mr. McMurtry: As a result of a committee's deliberations, one very positive fact that has occurred since our last estimates is an improved pension plan for the provincial court judges.

Mr. Renwick: I understand that is well under way.

Hon. Mr. McMurtry: It is in the process of being implemented. They will have improvements that no one else under the provincial umbrella get, in so far as people who are paid from the consolidated revenue fund are concerned.

The judges have been subject to our five per cent restraint program, as have all other persons paid from the same source. The provincial court judges' salaries during the past nine years, while obviously not keeping up with the increases at the federal level, have increased at a greater rate than anybody else's.

Of course, the issue of what the federal government does is going to create an atmosphere of at least modest discontent in areas where it appears to have been quite generous and the provincial government has not. One has only to look at today's newspapers to apprciate the generosity to their own as a hallmark of the former federal government. Our approach has been somewhat less generous right across the board.

The former federal government's attitude in these issues—I do not want to be unnecessarily partisan, of course—is reflected to some extent in the huge federal deficit.

Mr. McKessock: That will all be changed now.

Hon. Mr. McMurtry: I am not suggesting that the Supreme Court judges or the county court judges are being overpaid, do not misunderstand me, but the fact is—

Mr. Renwick: It does not matter whether I misunderstand you, I would not want any of those judges to misunderstand you.

Hon. Mr. McMurtry: We are dealing in two different areas of public management now. The provincial court judges obviously are not happy, or many of them are not, with their level of remuneration.

Mr. Breithaupt: What is the salary range at this point?

Hon. Mr. McMurtry: I will get that information for you in a moment. I appreciate the

important fundamental principle that judges are not part of the government, but the fact of the matter is that they are reimbursed from the same source. Their salaries, as I said a moment ago, have increased at a greater rate than that of anyone else who is paid from that source.

There is a very practical problem. There is a whole range of people who are public servants, employees of the crown who are paid from the provincial purse and who are significantly underpaid if you compare them with their federal counterparts in the context of their level of responsibility and the importance of their office. 12:20 p.m.

In any sphere of human affairs, to suggest that one group of public servants be compensated, or that an increase be accelerated to a considerable extent beyond the level of other groups who are discharging very important responsibilities, although they do not have the independence of the judiciary, obviously creates a significant problem for any government. That is the reality of the world in which we live.

Mr. Carter, do you have the range of salaries for the provincial court judges? I think I know what they are but I do not want to guess.

Mr. Carter: Yes, the current rate is \$68,939. Then one would reckon those other benefits on top. As I understand it, the package at the moment would range between 20 and 25 per cent. That is also exclusive of the \$1,000 which was the extra allowance given.

Mr. Breithaupt: So by comparison, provincial court judges are effectively in the range of the county court—or would there be a benefits package addition that would maintain the differential?

Mr. Renwick: There is a benefits package for the county court judges. I was speaking of straight salaries. What we are talking of is \$70,000 to \$85,000. There is a \$15,000 differential, or in that range.

Mr. Breithaupt: Is that correct?

Mr. Carter: Yes. I think I should add that the \$68,939 is the current rate, pre April 1, 1984. It does not have any addition to recognize this fiscal year.

Mr. Renwick: What is going to happen about any current increment?

Hon. Mr. McMurtry: We do not know yet, but there will be a current increment which will undoubtedly bring them over the \$70,000 figure.

Mr. McKessock: What is the \$1,000 for?

Mr. Carter: It is an extra allowance to recognize a number of areas of interest to the judges as they presented it through their committee, an allowance equivalent to what they have in the federal system. For example, to purchase certain clothing, certain library materials and that type of thing. Effectively, one might recognize the amount as \$69,939, but we separate them.

Mr. Renwick: There are two other items that are bothersome about the committee. I am not asking for a comment, I just wanted to mention them so you could consider them for whatever value they have.

The first is that the committee, as it was constituted in January 1981, made a recommendation about the salary question, that the goal should be toward equalization with the county court. The concern of the committee is that there has never been a response to that letter of January 1981. There has been no acknowledgement of any kind by the government to the committee.

Of course, the complement of the current committee is entirely different, but they feel somewhat inhibited when they have not had a reply to the original matter.

The second matter of concern—and of course this is totally without any reflection on the competence, ability and integrity of the person concerned, is the governmental appointment of Mr. Carman, the deputy to the Chairman, Management Board of Cabinet (Mr. McCague). Mr. Carman is so intimately involved with all of the financial affairs of the government that it might well be important to give consideration to a government appointee to the provincial court judges' committee who is not a member of the senior civil service of the province, from the point of view of the considerations which are entering into their concerns.

I just wanted to make those comments. I think I have made them before, but I just wanted to make them again.

Hon. Mr. McMurtry: I would like to respond to that. Briefly, this is an issue with which we are dealing right now in so far as the person who is appointed by the government is concerned. I can assure you that Mr. Carman himself is not urging anyone to believe that he should remain a member of this triumvirate. It has been a very challenging task for him, to put it mildly.

We are not opposed to the concept of having a government appointee outside government itself. I must admit the issue troubles me a little bit. I can understand the perception of Mr. Carman being there and the desirability of not maintain-

ing a perception that could be negative or misunderstood.

On the other hand, to appoint someone who represents government and who does not really know the realities of the economic situation of the government and the government's overall fiscal approach might be a little unfair to the committee. It is important that the committee be aware of the overall realities of government financing and government expenditures in order that it might adopt a realistic approach.

You cannot operate in a vacuum that ignores the realities. The reality is you cannot simply treat one group of public servants, even if they are judges and independent of the government, in complete isolation from what is going on in the government generally. That is the reality I think should be brought to that committee. Perhaps it can be brought without having a senior member of government on the committee. That decision has yet to be made.

Mr. Chairman: Thank you, Mr. McMurtry. Do you have anything further, Mr. Renwick?

Mr. Renwick: Yes, I have, but I do not want to pre-empt what little time there is left on it.

It was with some sadness that I read the decision of the Court of Appeal on the constitutional matter related to the Inflation Restraint Board. I suppose compliments are due to the crown law officers for their success in that case, but as the Attorney General would say, I was saddened as I read it.

Are you going to give consideration to broadening the jurisdiction of the Divisional Court so on matters of application and reference such as that it could consider the constitutionality of the issues involved?

Hon. Mr. McMurtry: Do you want my official or unofficial response?

Mr. Renwick: While the three judges express themselves in a most valuable way on the concept in the charter of freedom of association, as I say, I was quite saddened by the last paragraph: "Having regard to our interpretation of section 13 of the act, no charter issue arises."

Hon. Mr. McMurtry: I have not actually read the judgement yet, Mr. Renwick. What was the last paragraph?

Mr. Renwick: "Having regard to our interpretation of section 13 of the act, no charter issue arises." That is from Re Skapinker, a judgement of the Supreme Court of Canada, released May 3, 1984, as yet unreported.

Mr. Breithaupt: That was the law society membership matter, if I recall, and citizenship requirement.

Mr. Renwick: Mr. Justice Estey stated:

"The development of the charter, as it takes place in our constitutional law, must necessarily be a careful process. Where issues do not compel commentary on these new charter provisions, none should be undertaken. In the circumstances, it would not be appropriate for us to express any opinion on the charter issues considered in the court below."

12:30 p.m.

Hon. Mr. McMurtry: One could hardly quarrel with the wisdom demonstrated by that expression from the highest court of the province.

Mr. Renwick: Let me perhaps dare to comment. As Yehudi Menuhin said, "Fools walk in where angels fear to tread, but that may be the ultimate justification for fools."

Let me suggest that the content of the term "freedom of association" is now unlikely to ever arise. It is not the kind of concept that would arise in relation to trade unions and collective bargaining on any other occasion, the way other charter issues find their way into the court system. I certainly would appreciate it if the Attorney General would indicate, for example, that the view of the law officers of the crown is that the comments of each of the three judges in the Divisional Court were their interpretation of the meaning of the phrase "freedom of association."

I really am quite upset, whatever the reasons. They basically adopted Mr. Justice Galligan's position, leaving aside that Mr. Justice Galligan also spoke on the charter issue if he had to speak on the charter issue.

Mr. Breithaupt: Foreclosing the opportunity, it seems to me-

Mr. Renwick: It is now all over.

Hon. Mr. McMurtry: As I recall, the British Columbia Court of Appeal dealt with this issue. We would be happy to send you a copy of its judgement in which it had a pretty strong disagreement with the conclusions reached by our Divisional Court. I think a similar judgement has been given by the Federal Court. This matter has also been dealt with by the Supreme Court of Nova Scotia, all of which apparently have found some difficulty with the reasoning—

Mr. Renwick: This court has not found any difficulty with it.

Hon. Mr. McMurtry: These other courts have.

Mr. Breithaupt: It is not quite over yet.

Hon. Mr. McMurtry: It is not quite over yet. I may be mistaken, but if my memory serves me

correctly, some of the reasoning adopted by the Divisional Court is now being employed by counsel who wish to attack the closed-shop concept in relation to freedom of association. It is a two-edged sword in so far as the whole vital issue of collective bargaining is concerned.

There is an application before the court which I understand will adopt the arguments or decisions of the Divisional Court judges, suggesting certain individuals should not have to be members of the union or pay union dues in order to retain their employment with a particular company. I think that helps place this issue in reasonable perspective.

Mr. Renwick: Some day I may be inclined to write an article on the sociological background of the Justices of the Court of Appeal.

Mr. Williams: I would like to pick up on the offer made by the Attorney General, although it was made to you, Mr. Renwick. I would very much appreciate having a copy of the Supreme Court of Canada decision and our own Divisional Court decision. I was not aware of the other jurisdictional provincial court decisions.

Hon. Mr. McMurtry: There is no Supreme Court of Canada decision.

Mr. Williams: Oh, I am sorry.

Hon. Mr. McMurtry: Court of Appeal, Divisional Court, British Columbia Court of Appeal, Federal Court: we will send copies of all those judgements to you.

Mr. Renwick: I would like to have copies of those. The substance was simply that the Divisional Court did not have jurisdiction to deal with the constitutional issue. It went on to deal with it on the "unconstitutional" issue.

Hon. Mr. McMurtry: You were not going to say they went on to deal with it in an unconstitutional way.

Mr. Renwick: No, I would not dream of saying that. I was pleased to see the Chief Justice was not sitting on that court.

Mr. Breithaupt: We could ask you why.

Mr. Renwick: Maybe on another occasion. The area about which Mr. Breithaupt would know quite a bit and on which I know very little is the whole question of mediation as a dispute resolution process. I had the opportunity to get this pilot project evaluation of the Windsor-Essex Mediation Centre; Mr. Simon Chester, I think, sat on the board of that. It was basically a bar association initiative funded by the Donner Canadian Foundation. Of course, there has been

a mediation centre in Kitchener-Waterloo for a long time, has there not?

Mr. Breithaupt: yes.

Mr. Renwick: This mediation project dealt with a number of consumer problems. By happenstance the Windsor Star apparently stopped its consumer action line and referred all its cases to this project halfway through the project, so it had considerable experience in dealing with merchant-customer disputes. It had considerable experience dealing as referee, on reference about halfway through the project under the Small Claims Courts Act, with a wide variety of small claims court problems. It had some family problems, but there was some problem with the bar in Windsor on the family law part it.

Certainly the information in this report and the satisfaction component of it was extremely high. They had trouble, as everybody does, with cost comparisons with respect to the court system as distinct from the mediation process. These were all volunteer mediators from various disciplines and they tried to fit the particular background of the mediator to the particular case to be decided and so on.

Then I saw, of course, that an announcement was made by the immediate past Justice minister about a contribution of \$60,000 to a mediation research project: "The two-year project will be managed by the legal aid committee of the Law Society of Upper Canada and aims to study the cost benefit and social benefits resulting from the mediation of disputes on custody and access in family law as compared to litigation by legal aid lawyers. The total cost is \$135,000, with the government of Ontario contributing \$45,000 through the Ontario legal aid plan and the Laidlaw Foundation contributing \$30,000." This, I gather, is to be restricted to family law mediation as such.

I was particularly interested in this project because of the nonfamily dispute resolution content of it, emphasizing, as it does, that in many of these cases there is a continuing relationship, tenuous as it may be, between the disputants; in other words, they have to go on living together. I am talking not about the family sense but rather the sense of neighbours' disputes, customer-merchant disputes, that kind of dispute. This was under the chairmanship of John Jennings, and the report just went to Claude Thomson recently.

I would appreciate any comment the minister has about whether we are getting at crosspurposes on these various projects or whether there is some consistent goal he wants to achieve through the mediation studies that are going on, and whether he feels it has a positive capacity for dispute resolution in a nonadversarial setting on a voluntary basis—naturally, always on a voluntary basis.

Mr. Chairman: Before the minister makes his reply, we will be coming to the conclusion of the estimates in approximately five minutes, and I just want to make the members aware that we will be having the final vote at 12:45. Please proceed.

Mr. Renwick: I have only 67 more items.

Mr. Chairman: You can write them, I guess. **12:40 p.m.**

Hon. Mr. McMurtry: The mediation concept, of course, is very important. During my tenure we have always been very interested in it because the need for it is so obvious, whether it is family or nonfamily.

The emotional trauma associated with protracted litigation and adversarial proceedings in family disputes is so well known that it hardly needs commenting on. That is why we have been interested in various mediation projects. We have consistently supported them either financially or with other resources throughout the province. The high cost of civil litigation cries out for alternative dispute resolution, and mediation is the most obvious process to be considered.

The difficulty is the cost efficiency of mediation on the one hand coupled with the success ratio. When we look at the total picture, we have had difficulty coming up with models that really justify the expense. While it may alleviate the expense in relation to some of the individuals involved, the cost to the public purse unfortunately is quite high. We are still struggling to find the appropriate models.

As far as Windsor is concerned, I think we agreed. As Mr. Renwick has pointed out, it was a Canadian bar project which was enthusiastically supported by the ministry and, as you mention, Mr. Simon Chester was invovled in that project. As I recall, the report does not recommend that the project be carried on or does not suggest that the project should be carried on in its present form. I think we had an alternative proposal we were developing. Perhaps Mr. Craig Perkins, who is now with us, could address that. We are running out of time.

Mr. Renwick: They were careful to avoid the trap. Now that the Donner Canadian Foundation funding has run out, somebody else should now pick up the tab. I think they wanted to treat it as a

completed project, rather than get into continuing it. There is some extremely valuable information in the report.

Mr. Chairman: I think this would be a good time to conclude.

Mr. Renwick: Let Craig Perkins finish for a moment.

Mr. Chairman: It may take another five or 10 minutes.

Mr. Renwick: It will take three.

Mr. Chairman: How do you know? All right, Mr. Perkins. Please keep it short.

Mr. Perkins: Mr. Chairman, as to the Windsor mediation project, Mr. Renwick is quite right, and the report has some very interesting information in it. The results for the cases they intervened on are very positive, but I think we have to bear in mind that the Windsor mediation project was extremely selective in the cases it took on. For that reason, its success ratio was very high.

Even with the very careful selection of cases that it exercised, the cost per case in the small claims cases, leaving aside the other cases, cost on average in the last year of the project more than \$450. When you realize that we are talking about small claims actions in Windsor involving less than \$1,000, the cost per case becomes very high. That is one factor.

When we talk about cases other than small claims cases, the costs were much higher still. Keep in mind that these were cases that were prime subjects for mediation and this was also where the mediator's time was donated free of charge.

Those were matters that caused the ministry to have another look at the way to go. What is happening now in Windsor is that the University of Windsor law school is taking over the project and the project will continue under the university's aegis, although in what form I do not know, because that is up to the university at this point.

The other legal aid mediation project aims at finding out what the cost is to the individuals involved in family disputes and also, of course, to the public purse, because many people in family disputes are on legal aid certificates. That project will examine the social benefits in family disputes for legal aid clients and also the cost to the individuals and to the legal aid plan if they pay a mediator rather than paying the lawyers. We hope it will be rather than paying the lawyers, not in addition to paying the lawyers.

Mr. Renwick: Mr. Chairman, before we conclude these estimates and as it is unlikely that my colleagues, Mr. Breithaupt, Mr. McMurtry and I will be engaged in the same triangular operation in the future, I would like first of all, to wish the Attorney General well with whatever decision he may make and whatever the future may hold for him. To my colleague, Mr. Breithaupt, I wish him the very best in the good fortune of the Ontario Law Reform Commission in having him as the new chairman.

I would just like you to know that my present intention is to continue to labour here in the vineyard with whomever should be my colleagues. I just wanted to say to the Attorney General and to Mr. Breithaupt that I wish them very well, whatever the future may hold for

them.

Mr. Breithaupt: Thank you, Mr. Renwick.

Hon. Mr. McMurtry: Thank you, Mr. Renwick. I would like to express my appreciation to you for expressing your sentiments. When you say "whatever the future may hold," I think we know pretty much what the future may hold for Mr. Breithaupt. I certainly join with you in wishing him very well in the new responsibilities he will be assuming in the relatively near future.

Certainly, as I enter my 10th year—and I am now in my 10th year in this particular office—I have to feel a great sense of nostalgia and a realization that this particular triumvirate will not be debating these issues together, in this forum at least—in other forums perhaps, but not in this forum—as we have done for almost a decade now.

It has been a very exciting and a very stimulating period. Despite our occasional disagreements and disputes, the interaction has been very exciting and stimulating and challenging for me. Certainly everyone in the ministry feels they have benefited by this process and particularly by the participation of the two justice critics who are here.

Mr. MacQuarrie: On behalf of the government members sitting on the committee, and speaking also for myself, I certainly endorse everything that was said by the Attorney General and Mr. Renwick, particularly with respect to Mr. Breithaupt. It has been a pleasure and privilege for me to work with you here on the committee. Certainly we wish you extremely well in the new undertaking you are about to assume

Mr. Williams: With respect to our friend Mr. Breithaupt, I have been here a relatively short period of time; he has been here much longer. I used to watch him with interest before I ever

came into the Legislature. I was always impressed with his decorum, if you will, his stature and the methods by which he engaged in the political debate.

Since coming to Queen's Park I have always had a very personal high regard for Jim Breithaupt because of the quality of his participation. I do not know of an instance where in the heat of political battle and debate, he has ever let his stature down, so to speak, as far as sticking with the issues and staying free of personality debates is concerned.

For that reason alone, he has made a very fine contribution over the years to a set of laws in this province that is second to none, not because these laws were brought on board by a Conservative government, but because of the participation of legislators of the calibre of Jim Breithaupt. They were much the better for that opposition, which makes the democratic process work so well.

I think the loyal opposition party will have a void with the departure of Jim Breithaupt. From a partisan point of view, it is a problem with which they have to deal, but I think it goes much deeper than that. I think this departure leaves a great void in the broader sense of the Ontario Legislature. I wish him well. I certainly always appreciated his statesmanlike approach to the way he carried out his duties in the Ontario Legislature. I think we all admire him for that.

Mr. Breithaupt: I thank the Attorney General, my colleague Jim Renwick and the others, Bob MacQuarrie and John Williams, who have so graciously wished me well as I pursue a change in career. It is difficult to believe that 17 years have gone by. The privilege of representing the people of Kitchener and their approval of what I have done through five general elections have been of great comfort to me.

This new task is one I certainly never expected to fulfil. I have already received a letter from Allan Leal who, I must remind you, was the dean of the law school while I was a student. It will be interesting to see how things work out. Of course, as I am a former artillery officer, I am sure he and I will get along as we have continued to do over the years. There is a certain incestuous relationshp that does result from being a gunner, I suppose, but that is all by the way.

I am much heartened by the kind comments that many friends have made and the letters and the calls that have come to me. I do hope I prove worthy of the confidence the Premier (Mr. Davis) has placed in me. I thank you for the relationships we have all had over the years and I wish you well as the universe continues to unfold.

Mr. Chairman: Thank you, Mr. Breithaupt. I would like to add my good wishes on your new prospect and new job. I agree with Mr. Renwick, we do not know what the future holds for the Attorney General, but I also had a bit of a suspicion when Mr. Renwick was concerned about the pay scale of the judges. I thought maybe this was a lead into something else.

Mr. Renwick: You will be pleased to know I am altruistic.

Mr. Chairman: On that bit of humour I think we will go back to vote 1506. Shall vote 1506 carry in its entirety?

Vote 1506 agreed to.

Mr. Chairman: I would like to thank the minister and all his staff. We appreciate you being here and being so forthcoming with your answers.

This completes consideration of the estimates of the Ministry of the Attorney General.

I would like to make a note that tomorrow, after routine procedings, we will be starting the estimates of the Ministry of Consumer and Commercial Relations. We will adjourn until then.

The committee adjourned at 12:55 p.m.

CONTENTS

Wednesday, October 24, 1984

dministrative tribunals program	
Metropolitan police force complaints project	
Courts administration program	J-327
Adjournment	J-339

SPEAKERS IN THIS ISSUE

Breithaupt, J. R. (Kitchener L)

Kolyn, A.; Chairman (Lakeshore PC)

MacQuarrie, R. W. (Carleton East PC)

McKessock, R. (Grey L.)

McMurtry, Hon. R. R., Attorney General (Eglinton PC)

Renwick, J. A. (Riverdale NDP)

Williams, J. R. (Oriole PC)

From the Ministry of the Attorney General:

Campbell, A. G., Deputy Attorney General

Carter, G. H., Assistant Deputy Attorney General and Director, Courts Administration

Linden, S. B., Public Complaints Commissioner

Perkins, C., Counsel, Policy Development Division

Takach, J. D., Assistant Deputy Attorney General, Criminal Law





Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament

Thursday, October 25, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 25, 1984

The committee met at 3:42 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

Mr. Chairman: Ladies and gentlemen, we are here today to review the estimates of the Ministry of Consumer and Commercial Relations, referred to our committee on May 17, 1984, by the Legislative Assembly. The time allotted for these estimates has been cut to 16 hours, if I am not mistaken, although it was down for 20 hours.

Minister, do you have an opening statement?

Mr. Swart: Mr. Chairman, might I suggest we have the three opening statements? Subsequent to that, perhaps we could allot time for each vote, of course at the wish of the members, so we do not get tied down on other things that people want to discuss.

Hon. Mr. Elgie: Mr. Chairman, at the same time the deputy might want to ask if in our scheduling we could agree on certain times with staff so they are not all tied up.

Mr. Chairman: Yes. Excuse me, I understand the hours have been changed to 15 and there will be a motion in the House to that effect.

Minister, I know you have an opening statement if you would like to proceed.

Mr. Swart: Do we have the statement so we can follow it? I would like to make notes.

Mr. Chairman: Yes.

Hon. Mr. Elgie: Mr. Chairman, and members of the committee, this is the third occasion on which I have had the privilege of addressing this committee during estimates as the Minister of Consumer and Commercial Relations. I look forward to responding to honourable members' questions about the ministry's policies, plans and operations.

Mr. Swart: Mr. Chairman, on a point of order: do we have copies of the statement?

Mr. Chairman: Would you please give the copies to the clerk so he can distribute them?

Mr. Elston: Mr. Chairman, while we are getting those distributed, I guess I should make note of the fact that two of the previous critics in this ministry have now been dispatched to Ottawa to bigger and better things. I presume that

is an indication the Ministry of Consumer and Commercial Relations has been helped quite a bit in its latest problems by the federal government. Perhaps there is an ever-increasing role for the provincial politician at the federal level to help pull the Ontario government out of its difficulties.

Hon. Mr. Elgie: I would have looked at it entirely differently. I would have thought the experience opposition members have on this committee so disenchanted them with—

Mr. Elston: With the mess.

Hon. Mr. Elgie: -provincial matters that apparently they all want to leave and go to another world. I happen to like this provincial world. I expect you to keep liking it, too.

Mr. Elston: I really like this place. I expect to be moving in different circles, however, in the upcoming future, but I want to wish the minister every success in dealing with some of the problems he was talking about in the first and second sessions, and on which he will bring us up to date in this third session of estimates that he said he has had the pleasure of presiding over.

Mr. Chairman: Thank you, Mr. Elston. Mr. Swart, you had a comment.

Mr. Swart: I think the minister is a bit too modest. He does not have the effect of driving me to want to go to some other place.

Mr. Chairman: Yes, you are a regular attender, I agree.

Carry on, Minister.

Hon. Mr. Elgie: My local kitchen cupboard is not as full as the cupboards of other ministers who preceded me, but you seem to have taken a different approach with me and you no longer feel that supplying food to my family is an important part of your role.

Mr. Chairman: It made it difficult for the people who live in the Niagara area, Minister. I have a person who lives in Niagara Falls who was very perturbed after Mel brought it to the attention of the customs officials.

Mr. Swart: I have to say it is no change on my part. It is just that the Minister of Consumer and Commercial Relations we have now seems to have been expanding a bit around the waist since he got into the portfolio and I thought the kindest

thing I could do was not to provide any further temptation.

Mr. Chairman: Minister, we are getting into a debate. I think we should proceed with your statement.

Hon. Mr. Elgie: I cannot let that go by, Mr. Chairman, because it is with a note of appreciation from my wife and family that I may now inform you that as a result of your diligent efforts, I have lost 30 pounds and am now back to wearing 1965 suits. You should take great pride that you withheld food from my mouth.

This is without a doubt a difficult ministry to get to know. Its list of legislation alone fills almost two pages, but close examination reveals an operation of very real importance to the people of Ontario.

I sometimes think as I look at the newspaper that the clipping services look upon this ministry as their patron saint. Although I have never officially stacked up the Consumer ministry's press notices against those of other provincial ministries, I would not be surprised to learn we might win such a competition.

So broad is the ministry's mandate that much of its coverage in the media is not even seen to be associated with this ministry. Such is often the case, for example, on issues surrounding the Ontario Securities Commission, the Liquor Control Board of Ontario, the Board of Censors and the Ontario Racing Commission. It will come as no surprise to you that the minister's signature is carried around on thousands of wallet-sized birth certificates and rides up and down countless numbers of elevators every day.

Out of all this diversity of seemingly unrelated areas of responsibility and authority it would be difficult to pick a single, unifying theme other than the fact they all come under one minister.

There are, however, some trends and developments that I think are worth noting. This year I think that theme is collaboration and co-operation among this ministry, industry and other governments in the development of new legislation, new regulations and new ways of ensuring the consumer gets a fair shake in the market-place.

For government to dictate the way things are going to be done would certainly be faster and less expensive; however, I believe such a heavy-handed approach would likely damage more than it helps and in the end fail to achieve its original purpose.

Throughout my opening remarks you will hear of examples of such co-operative efforts at working out the best and most effective solutions

to the problems at hand. As an example, I would underscore the cross-country give-and-take process among other jurisdictions, this government and the industry currently going on in the production of a new draft Loan and Trust Corporations Act.

In our experience, the vast majority of businesses want to operate in an honourable fashion. Equally, they want to play some role in the development of the guidelines and regulations they will have to follow and live under.

This co-operative mood has resulted in the continuing trend towards the development of industry-financed consumer compensation funds modelled on the extremely successful Travel Industry Act compensation fund launched some nine years ago. It is also reflected, for example, in new propane standards enforced by my ministry's technical standards division and in new advertising guidelines for the travel industry.

This approach reduces conflict while allowing responsible representatives to participate in the regulatory process. It also allows government to harness an incredible storehouse of expertise and commonsense experience in the private sector.

As I did last year, I will start my ministry-wide review with the general area of financial integrity, covering the ministry's financial institutions division, the Ontario Pension Commission and the Ontario Securities Commission.

First let me deal with insurance. I think most of us here would agree that insurance is essential to our complex, risk-laden, modern lives. Overseeing the continuity, stability and integrity of Ontario's insurance industry is a major responsibility for my ministry's financial institutions division.

The staff of the superintendent of insurance licenses, examines and monitors insurance companies, fraternal societies, mutual benefit societies and farm mutuals. Where the division is not satisfied with the conduct of a licensed company, it can hold a licence hearing and if necessary revoke its licence or make it subject to terms and conditions of operation.

The division is continuing last year's practice of making greater use of statutory hearings under the Insurance Act as a vehicle for supervision of the industry. Although time consuming, these hearings have proved to be an effective tool in many cases.

During the current fiscal year, the division's financial examiners will continue to carry out statutory examinations of all Ontario insurers.

The last fiscal year has seen an economic improvement over the previous two years and this more positive financial climate has generally been reflected in the insurance industry. However, the poor economic conditions of the recent past have left some companies in a vulnerable position. It is these companies that continue to warrant close monitoring of their slow climb back to financial health. This worthwhile task, of course, results in a continued heavy work load for the division's examiners.

Currently, the division is looking forward to an enhanced and strengthened insurance industry. Policy initiatives in two areas have occupied much of the attention and talents of some of our senior officials. These are an insurance exchange and the possibilities of creating an insurance compensation fund.

Turning first to the insurance exchange, I am pleased to say that ministry proposals based on the initial report of Colonel Robert Hilborn have received cabinet approval. Our final proposals had the benefit of discussions with our counterparts in London where Lloyd's of London has successfully operated such an exchange for three centuries. Strongly endorsed by the industry, the exchange is expected to be in operation and self-regulating by next year.

It is expected that the outward flow of premium dollars on Canadian insurance and reinsurance contracts will be redirected over a period of time to Canada and, in particular, Ontario, by this exciting new prospective market. Not only would premiums be retained in Canada, but the insurance would be more securely placed because of the rules governing membership in the exchange. This in turn should reduce our dependence on unlicensed, offshore reinsurance companies.

I want to emphasize that the creation of last fall's enthusiastic report recommending the creation of an exchange stemmed in large part from a high level of industry participation and support. More than 50 professionals involved in insurance, finance, law and accounting contributed their expertise and experience. Their pragmatic report concluded that a Toronto-based exchange is a feasible commercial venture whose time has come.

As I mentioned, a second policy area of concern to the division, to the public and to the industry is the establishment of insurance compensation funds. The poor economic years referred to earlier resulted in the failure of some general insurance companies, some with result-

ing losses to policyholders, all with cost to government and the public.

The maintenance of confidence in the insurance industry is to the benefit of us all, as is the establishment of an orderly compensation system.

The division has entered into discussions with the industry and with the Canadian and provincial governments with the goal of creating a compensation fund for general insurance companies.

In my opinion, any insurance compensation fund should be national in scope, but should be operated in a way that recognizes provincial jurisdiction over the insurance field.

Although Ontario has been fortunate in experiencing no life insurance company failures, the principles of public protection, I believe, should apply equally to that industry. Therefore, the division will continue consultation with that industry and other governments towards the goal of a separate compensation fund for life insurance companies.

As a supporter of the compensation fund approach to consumer protection, Ontario is ready and eager to work with other jurisdictions in Canada to develop these compensation schemes. However, in the case of insurance, the protection of Ontario policyholders makes us anxious to avoid undue delay.

In the area of research and development in the insurance field, my ministry has an ongoing program aimed at monitoring compliance with our compulsory automobile insurance laws. We are presently assessing the statistics obtained from a survey conducted in co-operation with the Ministry of the Solicitor General and the provincial police.

Insurance data provided by some 4,000 motorists was checked out with the indicated insurer. A full 95 per cent has been verified and I expect this percentage to increase when final results are tabulated. This is an encouraging figure and, while I appreciate that samplings can be misleading, it certainly appears that Ontario's compulsory auto insurance system, based as it is on a highly cost-efficient process of voluntary compliance, is working very well.

Still in the area of automobile insurance, we are currently re-examining the statutory minimum liability limit of \$200,000 to determine if an increase is warranted. In saying that, I would also point out that is the highest level of any state or province in North America at this time, but we are nevertheless in the process of re-examining it

With respect to the loan and trust industry, the last fiscal year continued to be an active one for the financial institutions division in relation to loan and trust corporations in Ontario. The ministry constituted a stewardship committee to deal with matters related to Crown, Seaway and Greymac trust companies and to plan for an appropriate course of conduct for these institutions.

The complexity of these cases and the extensive litigation engendered means that our overseeing role of Greymac Trust and Crown Trust will necessarily continue but in an orderly and businesslike climate.

Seaway Trust, as members will know, has recently been petitioned into liquidation by the Canada Deposit Insurance Corp.

A major policy inititiative related to the loan and trust industry was the November 1983 release of the ministry white paper, Proposals for Revision of the Loan and Trust Corporation Legislation and Administration in Ontario. The white paper was extensively reviewed in hearings before the standing committee on administration of justice in January, February and March of this year. Those hearings were exceptionally valuable to the ministry in evaluating new ideas and alternatives to white paper proposals.

The standing committee in April finished its hearings by releasing a constructive and helpful report on its reactions to the white paper.

4 p.m.

Indeed, I should note that, as a result of the hearings and the report, my ministry has reconsidered its approach on some issues and has augmented certain areas with suggestions stemming from the standing committee's report.

The ministry has struck a drafting committee to develop a new Loan and Trust Corporations Act for Ontario. The policy, research and drafting work has been accompanied by constant liaison with other jurisdictions, with the industry and with the various professional associations.

Our goal is for a December bill, and I am sure that my colleagues, familiar as they are with the legislative process, will recognize that this may be an ambitious schedule.

Work in the policy and legislative areas has been accompanied by organizational changes designed to improve our capacity to monitor the loan and trust industry and to emphasize corporate responsibility for legislative compliance. I expect the next year to see continual progress in this area as the division continues to stress a strong regulatory mode of administration.

In that regard I would remind members of the appointment last year of Mr. George McIntyre as my ministry's first assistant deputy minister in charge of financial institutions. This was a position that was recommended in the white paper—the investigation branch.

In addition, as part of the overall reorganization of the financial institutions division and consistent with recommendations contained in the white paper, a separate investigation branch has been created to meet the investigative and intelligence needs of the whole division. Provisions have also been made to create task forces to meet special needs as they arise. Professional personnel will be drawn from appropriate branches of the division according to the particular problems at hand.

I am sure members will recall my announcement in June concerning the creation of a financial institutions task force to consider a report on the impact of economic, technological and competitive changes on my ministry's regulatory rule over financial institutions.

The primary purpose in appointing a threeman task force was to examine the organization and operation of financial institutions in this province during the 1980s and advise on the particular pressures and developments within the marketplace which may require attention from government. That may seem like a pretty tall order. To avoid any ponderous, big-committee style efforts at reinventing the wheel, we deliberately kept the task force small, its mandate large and its initial deadline short.

By the end of the year I expect an interim report identifying the key issues which should be studied further and indicating how the task force intends to engage the financial community in open consultation. It is this consultative role which will form the basis of the task force work.

In our opinion many of the questions and answers may already be out there and there is little to be gained from starting over from scratch. The future of our so-called four-pillars concept of segregated financial services will be a key part of the task force's consideration.

For example, it will consider the major factors-

Mr. Swart: Where did you get that expression "four pillars"?

Hon. Mr. Elgie: That has been traditional for centuries now.

Mr. Swart: It seems to me I heard it a lot during the months of July and August. Go ahead.

Hon. Mr. Elgie: You know what it means though, do you? The four pillars are the stock exchange, insurance—

Mr. Swart: I thought maybe you had adopted it from the federal campaign. Not precisely those pillars?

Hon. Mr. Elgie: No; not precisely those same pillars.

For example, that task force will consider the major factors creating pressures to change from segregated to integrated services—that is the one-stop shopping process that seems to be following a sputtering course in the United States—and what if any, would be the real, long-term benefits that integrated financial services, or so-called one-stop shopping, might bring to the consumer and the capital market of this country.

These, of course, are only two of the questions that the task force will be trying to answer. As I noted, its mandate has been deliberately kept large to permit the asking of questions that we may not have even thought existed.

This very important advisory group is being chaired by Dr. J. Stefan Dupré, a widely respected professor of political science and the chairperson of the recently completed Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario. Serving with him are Toronto lawyer Mr. Alexander MacIntosh, QC, a man of broad business experience, and Mr. A. Rendall Dick, QC, the undertreasurer of the Law Society of Upper Canada and the former Deputy Attorney General and Deputy Treasurer of Ontario.

I will now review at some length the work of the division's credit unions and co-operatives services branch. The total assets of Ontario's 916 credit unions and caisses populaires at the close of the last fiscal year were approximately \$6 billion, some \$643 million or 11.9 per cent higher than at the same time in 1983.

The net retained earnings as of March 31, 1983, were \$3.9 million, but by the end of March 1984 this had risen to some \$15.4 million. While this represents an increase of \$11.5 million in reserves over the year, it is still a low level when compared with the statutory requirement of five per cent of assets that we are heading for.

Accordingly, it remains a situation of serious concern to my ministry, particularly given the uncertainty caused by fluctuating interest rates.

There is evidence that the steps taken by my staff in calculating assets/liabilities matching over the past several years, and now supported by regulations, have enabled many credit unions and caisses populaires to maximize the benefits of major declines in interest rates. In turn, the recent rise in interest rates has caused less of a

problem than such fluctuations did between 1980 and 1982.

The past year has seen the committee made up of credit union and caisse populaire nominees advise on the development of a wide range of regulations. These range from the opening of branches through the administration of stabilization funds, implementation of financial standards and new requirements for the presentation of annual financial reports to credit union members.

I would also remind the committee that the role of the Ontario Share and Deposit Insurance Corp. was redefined in 1983 to allow it to concentrate on its primary responsibility as a deposit insurer.

A major concern during recent months was the involvement of the 9,000-member Toronto Board of Education Staff Credit Union Ltd. in lending activities which broke both its own bylaws and the statute. Credit Union Central of Ontario, through its loss prevention and rehabilitation service, took over the credit union's management. My staff has maintained a continuing presence in the credit union, and has stayed in close contact with the authorities, who are now reviewing its activities.

I might say that in the past, where auditors noted unusual activities there was no obligation to report them to the regulatory authority. Through Bill 71, auditors will now have an obligation to make such activities known to both the Ontario Share and Deposit Insurance Corp. and my ministry.

The number of co-operatives in Ontario continues to grow. During the year ended March 31, 1984, some 77 were incorporated, and a further 25 were dissolved, bringing the net total at year's end to 777. Members may be interested to know that of these co-operatives, 35.6 per cent provide day care services and some 37.9 per cent provide housing.

On the cemeteries branch: it may seem out of place to the uninitiated, but it bears repeating that my ministry's cemeteries branch comes under the authority of the financial institutions division. From an organizational point of view, this fact stems from the branch's responsibility for monitoring cemetery pre-need and perpetual trust funds. The branch, by the way, processed 1,270 returns outlining details of such funds during the last fiscal year.

4:10 p.m.

The cemeteries branch is more than just another financial overseer. It also inspected and visited some 2,400 cemeteries during the 1983-84 fiscal year and approved the creation or

expansion of 45 cemeteries, along with planned revisions for 857 more.

I will now turn to the motor vehicle accident claims fund as the last part of my review of the financial institutions division. As a result of the introduction of compulsory automobile insurance in 1980, there has been a substantial reduction in the number of new claims received by the fund. It is down from an average of 10,000 new claims per year to 1,259 for this last fiscal year.

Coincident with this reduction there has been a corresponding reduction in payments and administrative expenses from \$20 million to less than \$14.6 million. This decline has taken place despite the effects of high inflation and interest charges during the period and an increase from \$100,000 to \$200,000 in early 1981 in the maximum limits payable by the fund.

You will also recall the act was amended in February of last year to allow the fund to pay third party plaintiffs who were unable to collect or get damages because of the insolvency of the defendant's insurance company. To date, the fund has paid out \$2.4 million on behalf of the failed Pitts and Cardinal insurance companies and has recovered some \$1.1 million from the receivers. If there were insurance-industry sponsored compensation funds in place, similar insolvencies in the future could well be paid out of them rather than through the motor vehicle accident claims fund.

Although the fund was designed to be self-sustaining and despite the introduction of compulsory automobile insurance in 1980, the uninsured motorist fee which was previously charged to owners who chose to operate a vehicle without insurance has proven to be inadequate to cover the fund's outstanding liabilities and administrative costs for claims occurring before that date.

Consequently, it was necessary to obtain a subsidy of \$312,000 from the consolidated revenue fund for the 1983-84 fiscal year. It is estimated the fund will continue to have an operating deficit in the foreseeable future.

Before I leave the financial institutions division, I would like to touch on the internal restructuring that has taken place this fall. It is the result of an internal review of the division's operations launched early this year in response to recommendations contained in the white paper. From a structural point of view, the major change has been the separation of the division's regulatory licensing function into two key areas: that

of insurance and so-called deposit-taking institutions.

The superintendent of insurance, Mr. Murray Thompson, will be responsible for the regulation of insurance matters and Mr. Jim Wilbee, executive director of deposit institutions, will cover the loan and trust companies, and credit union fields. Mr. Tom Robins will continue to serve as director of credit unions and cooperative services. During the summer, Mr. Don Reid assumed the role of director of investigations, an upgraded branch of the division, as I noted earlier.

With respect to the Ontario Pension Commission, to put it simply, the mandate of the commission is to promote the establishment, extension and improvement of pension plans in this province and to regulate pension plans covering Ontario members. That description may fit neatly into one sentence, but a description of its importance and potential impact on the lives of millions of workers could well fill a book.

Over the last fiscal year, the commission registered 408 new pension plans, bringing the total number under regulation to approximately 8,500. This represents the pensions of some 1.7 million Ontario workers. The commission also approved the distribution of assets for 347 plans which had been terminated.

In carrying out its role, commission staff responded to approximately 18,000 inquiries and complaints from employees, employers, actuaries, lawyers, accountants, union officials and insurance company representatives.

This past summer, a Toronto newspaper carried a business story entitled "Pension Fund Comes to the Rescue," a report of the pension benefits guarantee fund's first full year of operation. The pension commission administers the fund, and I feel that this newspaper headline accurately reflects the important role played by this recent addition to our growing arsenal of industry-financed consumer protection funds.

Established in 1980, the guarantee fund—the only one of its kind in this country—was designed to provide certain guarantees of benefits to employees of pension plans that are wound up and are short of the funds needed to fully satisfy the plan's obligations. Financing of the program was started in September 1983, with the assessment rate set at two tenths of one per cent of the total unfunded liability under the plan. As of March 1984, the amount collected during the first assessment year totalled approximately \$2.5 million.

The guarantee fund paid out claims of approximately \$1.9 million with respect to three bankrupt companies. As a result of the current year's assessments, the fund is building up again, and as of the end of August the balance stood at approximately \$2.6 million.

The 1980 amendment to the Pension Benefits Act gave the commission the power to take over the administration of a pension plan when it was in the best interest of the fund and the plan participants. Such takeovers were carried out in two situations; namely, the pension plan for union employees of CCM Inc. and the plan for employees of Damas and Smith Ltd., a Toronto-based consulting engineering firm.

A first for the commission was the successful laying of charges against Damas and Smith. The company was fined the maximum penalty of \$10,000 for failure to comply with the requirements of the legislation. Compulsory employee contributions had been illegally channelled into the company's working capital.

Very little is happening on the legislative front, because virtually any legislation is being held in abeyance pending pension reform. Regulations were filed, however, which permit pension plans to invest in Canadian resource properties and in bonds or debentures that are insured by a credit insurance policy. This amendment was not major in nature and was intended to bring the investment requirements in line with legislative actions by other jurisdictions.

This year, the government of Ontario released its position paper for pension reforms. As members know, the broad mandate for pension policy falls under the office of the Treasurer, but my ministry and the pension commission have worked very closely with Treasury officials in the development and preparation of the policy paper.

The Treasurer (Mr. Grossman) has publicly stated that pension reforms will be enacted in early 1985. Just as an aside, I understand that officials are having meetings in early November with respect to the matter of pension reform and I believe a ministers' meeting is planned for early December on the same issue.

However, one overriding concern remains to be resolved; that is the need for the provinces and the federal government to work towards uniform legislation across all of Canada. To this end, the provincial ministers responsible for pensions met in Toronto in June and agreement was reached on several key issues. As I mentioned, a further meeting is scheduled for early December and I

am optimistic that, shortly thereafter, all provinces will be ready to move forward with a uniform package of reforms.

In September, at a one-day conference that attracted 200 senior people from the pensions field, the commission opened its doors to its rules, procedures, processes and thinking. The program was intended to assist the public in understanding and coping with the legislative nightmare of differing provincial pension laws across this country. It was also designed to assist the pension industry in its dealings with the Pension Commission of Ontario.

4:20 p.m.

That conference symbolized a more open direction for the commission. It is now opening its doors more frequently to the public and consulting with individuals and the pension industry at large in an attempt to achieve regulation by co-operation.

Recently, this type of atmosphere led to representations being made by associations such as the Pension Investment Association of Canada and the Toronto Stock Exchange and the Toronto Futures Exchange. It is expected that this consultative process will be greatly enlarged as we move into the pension reform era.

The final subject I would like to discuss under the category of financial integrity is the Ontario Securities Commission.

The 1983-84 fiscal year started off with a major change when the commission deregulated rates charged for brokerage services. Several new applications for specialized discount firms were approved and negotiated rates are now widely accepted in the industry.

A public hearing lasting some 22 days was held during the summer of 1983 to discuss the Toronto-Dominion Bank's application to register its Greenline discount brokerage access service. At the commission's request, the bank postponed implementing the service to allow time to evaluate the implications of this new development.

On October 31 of that same year, the commission, in permitting the Greenline operation, upheld the four-pillar concept of the Canadian financial community—banks, investment firms, insurance and trust companies—with each segment having defined functions protected by legislation against infringement by others. The T-D Bank's new venture was, therefore, subject to conditions that relate to the maintenance of that four-pillar concept.

Banks offering access to such discount brokerage services are required to register as order execution access dealers. As a condition of registration they may not provide investment advice to clients. In addition, tied arrangements are not allowed to occur between banks offering these services and conventional discount brokers.

Clearly, the growing economic, competitive and technological pressures within the financial sector have led to some blurring of the four-pillar separation. The Greenline decision, however, should not be viewed as a first major step towards the lifting of the traditional industry distinctions that have served us so well over the years.

Certainly it did illustrate the securities commission's flexibility, but the bottom line here is that the four pillars still stand. I can assure you that they will continue to stand until substantially more thought and analysis proves an alternative arrangement would serve the public, and the consumer in particular, better. I will touch on this subject a bit more in a moment.

The commission also implemented the exchange offering prospectus at the Toronto Stock Exchange. The EOP may be used by junior industrial companies and national resource firms to simplify the approval procedure. During 1983-84 28 EOPs were filed, worth a total value of more than \$25 million.

On May 17, 1983, the Toronto Futures Exchange Act was passed allowing for the successful opening of a futures exchange earlier this year. Some futures had been traded on the Toronto Stock Exchange since 1980, but this was the first time in Ontario that they were offered on a separate exchange under the regulatory control of the commission.

The securities commission is also continuing to research and develop recommendations for new legislation covering takeover bids. A report on this concern, released in March, made a number of recommendations. These were discussed at public meetings and OSC staff are currently working with other securities administrators to fine-tune proposed regulations. The commission plans to submit those proposals some time this fall.

A Toronto financial reporter writing on this subject noted, "Hostile corporate takeovers create a strange world of scorched earth, but at times shark repellent comes in handy." I am sure shark repellent does have its uses when applied to real sharks, but its excessive or untimely use can also pollute the waters for the remaining fish.

The OSC's proposals would prohibit a target company's board of directors or its senior management from taking certain self-serving defensive manoeuvres without first winning majority support of the shareholders at a special meeting. One of the goals of such legislation would be the prohibition of so-called "golden parachutes" and "diamond-studded wheel-chairs," euphemisms for long-term employment guarantees and overly-generous retirement plans arranged for top management just before a company takeover.

Essentially, the legislation will attempt to ensure that minority shareholders receive the same benefits as those groups or individuals who control large numbers of company shares and who may be offered a premium for their holdings.

This spring, the commission announced its intention to undertake a policy review of the adequacy and relevance of regulations governing the ownership and registration of securities firms. At the same time, a joint committee of the Canadian stock exchanges and the Investment Dealers Association of Canada was constituted to conduct a similar review. The commission's focus will be more specific than that of the task force on financial institutions, which I have already discussed in some detail.

The Ontario Securities Commission's review will consider the issue of outside involvement in the securities industry from the perspective of the industry and capital market efficiency rather than from the perspective of other financial institutions. The commission intends to publish its recommendations later this year.

In late July and early August, the commission hosted the ninth annual International Conference of Securities Commissions and Similar Organizaations. This conference was attended by 230 delegates and observers from some 29 nations.

Among the subjects on the agenda was a panel discussion on problems in the acquisition of control, including the financing of takeover bids and the emergence and regulation of international securities markets. There was considerable discussion of the gathering force behind both the pro and con arguments regarding the four-pillar concept.

I can only agree with the OSC's chairman, Mr. Peter Dey, who told the conference that the challenge facing Canadian regulators on the subject of financial service integration will be to avoid regulatory moves that would leave Canadian financial intermediaries on the sidelines while the multinational institutions take over. Clearly, we cannot function in a vacuum on this subject.

Among other initiatives, the commission is also addressing the sale in Ontario of so-called

strip or zero coupon bonds. The commission is concerned that there is a strong possibility the investing public may confuse strip bonds with more familiar instruments such as Canada savings bonds, guaranteed investment certificates and so on.

You may also be aware of the ongoing series of investor alerts now being issued by the commission as part of a joint, continent-wide, investor education program organized along with the North American Securities Administrators Association and the Council of Better Business Bureaus. The two alerts issued so far this year have concerned the high-pressure sales of penny mining stocks and the fraudulent sale of commodity futures contracts by unregistered operators.

Turning now to consumer protection: the protection of consumers as they go about their daily business in the marketplace is a very vital function of my ministry. Although it may administer more than six dozen separate pieces of legislation, the public image of the operation is that of a go-between, an arbitrator, and, when needed, a policeman—the provincial government agency that gets involved when the innocent buyer is burned by that small minority of Ontario business people who put fast profits above fair play.

Despite the key role that both my ministry and its federal counterpart now play in the market-place, I feel I must repeat the classic buyer-beware warning that remains as true today as it ever was. In fact, I will repeat what I said last year to this committee word for word:

"No government agency can take the consumer by the hand and lead him or her through every transaction. Such a marketplace would soon collapse or stagnate under the weight of government intervention and control. The most stringent set of regulations in the world cannot replace the best form of consumer protection in existence—a well-informed and cautious consumer."

4:30 p.m.

Nevertheless, it is my ministry's job to provide a helping hand in the maintenance of certain basic standards to endeavour to protect consumers from predators. Looking out for consumers, endeavouring to protect them from shysters, con artists and unfair business practices, is the primary role of my ministry's business practices division. The division enforces broad general standards of business practice, as well as certain defined codes over such specific areas of business as travel agents, private bailiffs, collec-

tion agencies and real estate, mortgage and business brokers.

Most complaints of unethical business practices come under two key laws, the Business Practices Act and the Consumer Protection Act, and are usually handled in the field by one of the division's eight consumer services bureaus. In the last fiscal year almost \$1 million was returned to consumers as a direct result of mediation by bureau staff.

About 12,000 complaints on a wide variety of subjects, ranging from home repair contracts to problems with mail order purchases, were handled by the staff of these offices in Thunder Bay, Sudbury, Toronto, Peterborough, London, Hamilton, Ottawa and Windsor. Not every complaint, of course, requires intervention. Frequently we find that a straightforward explanation of the consumer's rights and responsibilities is all that is required. Sometimes, however, a complaint may require hours of research and mediation, while more complex issues may take months to resolve.

At least half of these complaints were handled under the Business Practices Act, a piece of legislation which provides the consumer with the right of rescission up to six months following the purchase if there was misrepresentation used by the seller. A classic example of the successful application of this provision involved one woman's purchase of a used car described by the salesperson as having had only one owner. He also said the mileage had not been around the clock and that the buyer could return it for a full refund within 15 days, no questions asked.

A search through records of the Ministry of Transportation and Communications soon revealed, however, that the unlucky woman had become the seventh not-so-proud owner of the three-year-old car. Further mechanical inspection uncovered certain safety-related mechanical defects. Understandably, the woman requested rescission under the terms of the act, but the auto dealer, at least at first, refused to consider cancelling the deal. Bureau staff continued mediation proceedings and the dealer eventually agreed to refund her full purchase price.

While mediation may be the bureau's most common response to many consumer complaints, more broadly based consumer problems have occasionally been tackled by way of direct negotiations with industry. Early this year, for example, the division's Toronto bureau played a major role in the creation of industry guidelines for food freezer-plan contracts. My ministry had received numerous complaints about vague order

forms which left consumers unsure about the quality and quantity of the foodstuffs they had actually committed themselves to purchase. The new industry-set guidelines for such contracts led to the creation of order forms which clearly disclose the contents of food plans.

As successful as mediation and negotiations can often be, it would be naïve to imagine that such action alone could settle all incidents of abuse. Failure on this front frequently leads to more direct action by the division's investigation and enforcement branch to determine if the business involved in the dispute is actually breaking the law or not. If they are, an order to stop the unfair business practice may be issued or charges may be laid.

The branch entered the fiscal year with 321 investigations in progress. During the year, an additional 257 investigations were commenced into such matters as car repairs, car sales, phoney charities, cheap financing rates, multilevel marketing schemes, mail order scams, home repairs and a host of other misrepresentations in the sale of goods and services.

The branch entered into 522 prosecutions, with an estimated conviction rate of 80 per cent and, as a result of work by the unit, more than \$650,000 was recovered for consumers through court-ordered or voluntary restitution.

After car sales and repairs, the largest type of scam involved the sales of Ontario vacation properties. More than 400 people fell prey to unethical land speculators after responding to classified newspaper advertisements for single properties for sale.

Complaints ranged from the loss of down payments of up to \$10,000 to gross misrepresentations of properties for sale. Some people lost their life savings on worthless lots that were inaccessible, swampy, restricted from development or already owned by someone else. Fraud charges were laid against six individuals this past spring following the investigation of some 40 Toronto-based corporations.

I should point out that any business registered with the division can be inspected in depth, a process that can sometimes involve the examination of books and records and the freezing of bank accounts. In the last fiscal year, more than 3,000 such inspections were carried out on registrants.

A major area of concern continues to be fraud in the used-car business. While incidents of odometer rollbacks declined during 1983-84, such deliberate actions were replaced by an equally fraudulent and deceptive practice. As the country converts to the metric system, some unscrupulous used-car dealers found a new way to take advantage of the motoring consumer.

Mr. Elston: Some former used-car dealers are running for Premier.

Hon. Mr. Elgie: None who have been accused of that.

Mr. Elston: Certainly not.

Hon. Mr. Elgie: When relatively new cars, usually leased, pass the 100,000-kilometre mark, the odometer reverts to zero. The odometer, of course, can read 30,000 kilometres when the true distance travelled is actually 130,000 kilometres.

The Vice-Chairman: You could buy a used car quite safely from—

Hon. Mr. Elgie: Yes, you could put yourself in safe hands in many ways by going with that particular man.

Mr. Elston: The safe-hands man.

Hon. Mr. Elgie: Yes, the safe-hands man.

These cars are then given a professional clean-up and offered for sale to the public as low-mileage one-owner cars. Because the cars involved are generally only a few years old, the deception often goes unnoticed.

The ministry's special auto-fraud team has also continued its fight against unnecessary and often expensive car repairs. Cease and desist orders were issued and prosecutions launched against two large auto-repair chains. In one case a repair facility was fined \$20,000 for misleading a consumer into believing it would cost nearly \$1,000 to repair the brakes on his car.

Consumer research, complaint statistics and personal experiences all point to the fact that the purchase and repair of new and used automobiles can often rank as an unpleasant marketplace experience for many consumers. The problems are legion.

While legal remedies do exist under common law and the Sale of Goods Act, these are generally costly, time consuming and not too well known to consumers.

Increased public interest in legislation was generated by the introduction of new-car warranty protection laws in the United States. These are the so-called "lemon laws" which began in Connecticut in 1982.

Public perceptions of a lemon law make it a very popular and attractive concept, but the reality is that lemon laws apply only to new cars still under warranty, while the majority of consumer problems take place after the warranty has expired. Such laws do not eliminate the need

for a court-ordered solution. We are naturally concerned that consumers' expectations could be unreasonably high if we were to proceed with that exact same type of legislation.

Ontario is unique in that most major Canadian automobile manufacturers and most of the major importers have located their Canadian head offices in this province. This has provided us with an opportunity to co-ordinate what we expect to be a universal, high-quality, arbitration program. We have held preliminary discussions with representatives of all manufacturers and importers through the Motor Vehicle Manufacturers Association and through the Canadian Importers Association.

As a result of these discussions, I can report that we have obtained agreement from all of the automobile companies represented to develop and initiate an industry-funded arbitration program that will meet such principles as universality, accessibility and affordability.

We received assurances from the federal Minister of Consumer and Corporate Affairs that this type of negotiation within the industry did not offend combines legislation because, and I quote, "It does not represent an attempt by the industry to better themselves collectively at the expense of the consumer."

4:40 p.m.

We have also agreed that an arbitration program would go beyond the definition of so-called lemon laws. It would cover disputes arising from the interpretation, application or administration of the car warranty, and disputes alleging manufacturing defects in parts or workmanship on passenger cars and light duty trucks.

Since midsummer, a steering committee representing both manufacturers and importers, their associations and ministry personnel has been developing these basic principles into a workable program.

Meanwhile, the division continues its current initiatives, such as the auto fraud and ghost car programs. We are also looking at used car warranty and car repair disclosure legislation.

While I am on the subject of used car sales, I would point out one particular trend that may spell problems in the near future. We are aware of the fact that, last year, used car sales rebounded sharply, and that trend continues. This fact, along with survey data showing that the average used car sold in 1983 was 4.8 years old and had run 50,000 miles, as opposed to 4.25 years and 43,700 miles in 1982, is causing some concern. The price paid by consumers for these

older and higher mileaged vehicles is continuing to increase each year.

This phenomenon may well result in increased consumer complaints for the simple reason that an older, heavily used vehicle will require more extensive repairs to remain roadworthy. This, compounded by the fact that the consumer has probably paid more than he would have paid once upon a time for the same vehicle, adds to his frustration. Ministry staff will, of course, have to be prepared to deal with the repercussions in the form of increased numbers of complaints.

The members are aware of the Legislature's approval of amendments to the Motor Vehicle Dealers Act to allow for the creation of a compensation fund. Regulations under that act are currently being drafted and should be finalized this fall.

Car buyers will be able to make claims for compensation where they have paid a deposit for a vehicle that was not delivered because the dealership subsequently went bankrupt. They will also be able to claim compensation in cases where the car buyer has an unpaid court judgement against an auto dealer relating to the purchase of a car.

The combined police and branch unit known as the auto fraud team continued its work over the last year. I have already noted the odometer rollback and misrepresentation problems, but what was most notable during 1984 was the laying of car repair fraud charges against two well-known national auto repair companies.

In May, a muffler franchise in Scarborough and two of its employees, as well as a giant tire company chain of repair shops and two employees at its Etobicoke store, were charged, following complaints from consumers who were told that their vehicles needed expensive mechanical repairs, later demonstrated to be unnecessary by outside experts and by our own auto fraud team. In both cases, the mechanics involved were paid commissions on repairs in addition to their weekly salary.

Just over a month later, the same tire company was again charged with conspiracy to defraud the public, along with two employees at one of the firm's Toronto stores. The charges were laid following investigation of a complaint from a customer who requested two new front tires for his car but was told it also needed new ball joints and a wheel alignment.

The auto squad made news again in September when the president and two business managers at a major Toronto new car dealership were charged with 23 counts of fraud involving alleged

misrepresentations concerning the price of a manufacturer's extended car warranty. The laying of charges concluded a 10-month investigation into consumer complaints that the dealership was charging more for the extended new car warranty than was authorized by the manufacturer.

As I have so often repeated in the past, an informed and cautious consumer is the best consumer. All of the incidents of fraud and abuse that I have described so far received considerable publicity as a result of the close co-operation of the business practices division and my ministry's communications services branch. Numerous press releases and consumer warnings are issued throughout the year in an effort to heighten the awareness of the general public. In this way the unfortunate stories of a few consumers can be made into valuable lessons for thousands of others.

Turning briefly to the division's activities under the Mortgage Brokers Act, first, I would remind the members that the \$6.4-million investor compensation program was accepted by all of the 321 investors who lost money in the bankruptcy of Re-Mor Investment Management Corp. That registered mortgage broker collapsed in the spring of 1980 and compensation was paid by this ministry last year following a recommendation by the Ombudsman.

Also, this year the registrar has again sent personal letters to more than 400 newspapers across the province asking for their co-operation in refusing to carry advertising from unregistered mortgage brokers. The initial response from publishers was encouraging.

Meanwhile, the registrar of the Real Estate and Business Brokers Act continues the division's efforts to ensure that the public deals only with trained and qualified real estate personnel and to help guard against unscrupulous practices in the real estate industry.

Because of the position of trust held by real estate registrants within their community, the registrar has strongly resisted the unfortunate tendency of some disbarred lawyers to try to obtain real estate registration. In one case, a disbarred lawyer convicted of misappropriating \$180,000 of his clients' trust funds was denied registration as a real estate salesman. He appealed to my ministry's Commercial Registration Appeal Tribunal, but the registrar's original decision was upheld on the grounds that integrity was just as fundamental to the business of real estate as it was to the practice of law.

The two major stories in the Ontario travel industry over the last year were the protection of the travelling public following the collapse last year of Chieftain Holidays and Chieftain-Shamrock Tours, and the co-operative industry and government effort that went into the creation of new travel advertising guidelines in June. Last November more than 3,500 would-be travellers lost their vacation deposits when Air Bridge Corp. of Toronto went into receivership. The firm was owner of both the Chieftain and Shamrock wholesale travel operations. The Ontario Travel Industry Act compensation fund, financed and operated by the industry under the supervision of the division's travel registrar, had paid out more than \$1 million by this summer to the travel victims of that collapse.

The fund, fortunately, has been able to recover about 77 cents on the dollar from the bankrupt estate by way of court-ordered awards. Here in Ontario the fund will cover the remaining 23 cents on the dollar to a limit of \$3,500 for any one claim.

This, by the way, is the second time in 1984 that the fund has been able to recover compensation payments through the courts. In April the fund recovered more than \$600,000 from the bankrupt estates of Sunflight Vacations Ltd. and Skylark Holidays Ltd., which collapsed in late April 1982. The award allowed for the compensation of all claimants to the full level of 100 cents on the dollar.

The travel compensation fund has been described as one of the shining stars of the business practices division, successfully protecting the province's consumers from travel agent and travel wholesaler bankruptcies and from circumstances in which they have paid for but not received travel services. Since the fund's inception in 1975 it has paid out more than \$7.5 million to consumers.

The other great success this year was the June 25 announcement of new advertising guidelines for the Ontario travel industry. The hard reality of the marketplace is such that discounting and tough competition can sometimes lead advertisers to take shortcuts or to use what has been described as "bait-style" advertising which would make a particular travel offer seem more attractive or economical than it really was.

Mr. Williams: Bait-style? 4:50 p.m.

Hon. Mr. Elgie: Bait-style. You bait them with this offer, but then they find they are going to have to pay more to get what they thought they were getting.

Mr. Williams: I thought you said "bait sale." Hon. Mr. Elgie: Bait-style.

The Vice-Chairman: Is that "bait and switch?"

Hon. Mr. Elgie: "Bait and switch" is another term used.

Drawn up as a co-operative effort of the Alliance of Canadian Travel Associations and the registrar, the guidelines require the clear and concise description of travel offerings.

For example, advertising prices are to be in Canadian dollars unless clearly stated otherwise. In addition, the ad must spell out if there are further taxes and service charges, and must clearly state the occupancy basis for the price, such as \$500 per person double occupancy or \$400 for each of four persons.

As for developing issues in the travel area, I would point to the potential impact that airline deregulation in Canada may have on the industry. Although the expected lower cost of flying will, of course, be well received by consumers, the increased competition will likely produce an avalanche of confusing special fares, seat sales, new carriers and so on, all of which will mean an increased number of inquiries, complaints, flight cancellations and defaults. Anticipating these problems and planning accordingly will be a major challenge for the business practices division.

Last December, the division expanded its horizons with the proclamation of Bill 113, the Residential Complex Sales Representation Act. The legislation was designed to prohibit vendors of apartment buildings from leading potential buyers to believe they are buying the right to occupy an apartment in an existing building when, in fact, they are only acquiring an interest in the building.

Some buyers had been told they could automatically move into a building and evict the rental tenant, a procedure which is prohibited under the Landlord and Tenant Act. Under this new legislation, if a buyer has been so misled, he or she can cancel the agreement and sue for damages.

In the meantime, the division continues to study possible amendments to the Condominium Act to overcome certain problems identified through submissions and complaints from the public. For example, some form of protection may be needed for minority owners in a condominium corporation where majority control rests with a block of absentee owners.

Further to this, there seems to be a real need to find a way of halting proxy abuse, a problem that

has become quite serious and complex over the past several years. Management practices should also be reviewed; many unscrupulous management companies seem to have what amounts to absolute control over both the corporation and its funds, including the reserve fund. Proposed amendments to the act will be developed by the staff during the year ahead.

This past year has been an extremely busy one for the division's central registration staff. Approximately 30,000 registration renewal applications and 21,000 new applications were received from businesses and salespersons requiring registration under the seven acts administered by business practices.

New applications were given priority, which unfortunately resulted in a backlog of renewals. Fortunately, by the end of June the backlog had been cleared and a central registration is now operating with an acceptable level of processing time.

Central registration has over the years accumulated 150,000 registration files which have now been microfilmed and are part of the new credit system. Since 1982, all documents and correspondence received in central registration have been microfilmed upon receipt, providing complete registration details to a network of users authorized to have access under the system.

I am sure the members here today would agree that the business practices division certainly has a full plate of responsibilities and duties as laid out by existing legislation, but it was also called upon to monitor marketplace trends and problems that may eventually warrant a legislative response from government.

For example, over the last decade, franchising has grown beyond anyone's imagination, but certain aspects of the phenomenon have created financial hardship for some participants in franchising operations. After listening to both individual franchisees and franchisee groups, we have categorized their problems into certain key areas, such as an absence or shortage of expert marketing and training support, or complaints that royalties are too high for the level of support and service rendered. Other major problems include franchise territories that are either vague or nonexistent, and termination clauses that are too often one sided.

We, in Ontario, feel that disclosure is the paramount factor in all such problems. Cabinet has authorized my ministry to develop a disclosure approach for further consideration. I do not foresee a move by government to regulate specific contractual items such as termination.

Instead we prefer to rely on upfront disclosure and an appropriate cooling-off period to afford prospective franchise purchasers enough time to obtain professional advice on the substance of the contract.

The division studies economic trends by monitoring nine key indicators: consumer spending, disposable income, bankruptcy, credit, interest rates, unemployment, business turnover, structural changes in the market, and product innovation. Such crystal ball gazing cannot always be accurate but it nevertheless plays an important role in helping the ministry to prepare for future problems.

Based on the indicators I have listed, the division foresees intense competition for the consumer dollar coupled with very aggressive marketing policies. There will likely be an acceleration of the trend towards nontraditional selling schemes such as permanent garage sales, auctions, flea markets and door-to-door sales. Public desperation resulting from underemployment and disappearing jobs will heighten the profit potential for sellers of get-rich-quick schemes, a situation that could mean the division will have to launch marketplace shopping programs to uncover such scams. Job seekers will likely flock to buy jobs through franchising and other small business schemes.

A continuing pattern of liquidation sales will lead to sample shopping and closer liaison with other licensing agencies and municipalities. Rapidly changing product offers and new services will create more diverse problems for the consumer and more frequent complaints to the ministry. All of this may be complicated by the surfacing of a whole raft of consumer problems which will not fit our legislation or our traditional approach to problem solving. These new issues may relate to the rise of the so-called hidden economy, product redundancy, technical changes and company closures.

All in all, the future certainly looks challenging to say the least. There is little doubt that my ministry's continued relevancy will depend on its ability to remain just as flexible and responsive in the 1980s and 1990s as the new marketplace in which we will all work and live.

Turning to the Residential Tenancy Commission: with the pending release of the phase I report of the Thom commission inquiry into residential tenancies, I think few here today would disagree that the work of the Residential Tenancy Commission and the issue of rent review in general are of particularly high public and media interest, and understandably so. Bread

and butter issues which can affect both your pocketbook and the kind of home you live in will always be front-and-centre in the spotlight.

Let me first review the situation over the last year, a year characterized by a moderating trend in work load at the commission and a concerted effort to reduce the large backlog that had built up since 1982. Aided by substantially lower volumes of hearing applications as well as increases in the number of commissioners and support staff, the inventory of outstanding whole-building review applications was reduced by two thirds, from 1,978 at the start of the fiscal year to 565 at the close. Smaller but significant reductions were also achieved during the year in outstanding tenant applications and appeal hearings.

5 p.m.

The past year also saw the Residential Tenancy Commission play an active role in the enforcement of the legislation through the courts. A number of cases involving breach of commission orders or the filing of false information with the commission were investigated, resulting in charges against companies and individuals. In all cases completed to date, convictions have been registered and significant fines imposed on the offenders.

Considerable work was undertaken in the area of staff training and development. Seminars were held for commissioners on evidence law and the Residential Complexes Financing Costs Restraint Act, for review staff on appeal procedures, and for mediation staff on landlord and tenant law and mediation techniques. In addition to holding the annual commissioners' conference, a one-day seminar was held for managing commissioners on the administrative aspects of their role.

Fiscal 1983-84 saw the opening of a new office in Oshawa and major office relocations in Toronto, Etobicoke, Ottawa, Kingston, East York and Peterborough. These moves were part of the government's continuing plan for rationalizing expenditures on office leasing and providing greater accessibility to the Residential Tenancy Commission's clients.

Members will recall that late last year I introduced legislation to extend the Residential Complexes Financing Costs Restraint Act for a second year through to the end of 1984. This legislation was designed to limit the amount of financing costs experienced in the purchase of a building that could be passed along by a landlord in the form of rent increases to tenants.

It was first introduced as a temporary measure while the Commission of Inquiry into Residential Tenancies was under way, and I intend to introduce legislation again this fall to extend the act into 1985 while the government considers Mr. Thom's recommendations.

The actual statistical information concerning the rent review process for the last fiscal year reveals some interesting trends. As I mentioned, the volume of landlord applications for hearings fell drastically, down by almost 62 per cent from the previous fiscal year. A total of almost 4,000 tenant applications disputing rent increases or requesting rent rebates was received, and informal mediation by a commission-appointed mediator led to an agreement in fully three quarters of all cases finalized during the year. In turn, the commission helped tenants in recovering some \$1.2 million in excess rents paid to landlords.

When landlords brought their cases to a commission hearing they requested average increases of more than 19 per cent, but received the commission approvals for rent increases averaging less than 10.6 per cent. By the way, it may be of interest to note that in 13 per cent of the cases, the landlord was awarded rent increases below the guideline ceiling of six per cent.

I will now turn to the Commercial Registration Appeal Tribunal. It is the last item under the general heading of commercial standards programs at my ministry. The tribunal hears appeals of decisions made by ministry officials and other authorities responsible for licensing and registering certain types of business ventures, and from the decisions of the new home warranty program.

The major event this year was the legislative merging of the Liquor Licence Appeal Tribunal with the Commercial Registration Appeal Tribunal under the latter's name, a move that has increased the tribunal's operational flexibility in the availability of panel members.

I would emphasize that the tribunal is an independent forum which provides both companies and individuals with a simple and inexpensive way to appeal the decisions and proposals made by those bodies and agencies working under my ministry's broad jurisdiction. Business was steady last fiscal year, with the tribunal dealing with 487 cases.

I am now going to turn to the side of my ministry which, second only to the business practices division, holds the greatest diversity of regulatory responsibility. I refer, of course, to the technical standards division.

I will start my review of the division's activities with the pressure vessels safety branch,

that part of my ministry responsible for helping to maintain high industry standards in the design, manufacture and operation of pressure vessels. I want to emphasize that the continued good health of this industry is important to Ontario's economy. Upwards of \$300-million worth of Ontariomade pressure vessels are sold outside this province each year and many countries require an official stamp from Ontario.

I will not bore you with a long recitation of the number of new designs approved by the engineering section or the number of welding procedures registered. Instead, I would like to briefly comment on some of the other activities of the branch.

Mr. Elston: The audience certainly would not be bored with the presentation.

Hon. Mr. Elgie: We can extend it a little longer. Mr. Crosbie, would you arrange to get great details about those particular welding activities so we can bring them to the attention of the member?

Branch staff, in co-operation with the board of review, are actively engaged in a review and rewrite of the Operating Engineers Act and its regulations. The present act is difficult to understand. Following a number of complaints from the trade, it was decided to make it more readable and incorporate a number of minor changes at the same time.

Another developing area is the use of compressed natural gas as an automotive fuel. The branch has been involved with the development of appropriate standards for automotive cylinders and for filling stations. I want to emphasize that the pressure vessels branch exists mainly for the purpose of safety. I would like to point out that this emphasis on safety has resulted in the high quality of Ontario-made pressure vessels being recognized around the world.

I will keep to this same theme of touching on the year's highlights and major developments with my review of the division's elevating devices branch.

First, an amendment to the regulations pursuant to the Elevating Devices Act is in the final stages of development. It will adopt new elevator code requirements aimed at making elevators more convenient for the physically disabled by incorporating such things as more convenient placement of floor selection buttons, larger floor areas and more accurate levelling between car floor and landing.

The branch inspector training program is also under continuing revision to keep inspectors abreast of the rapidly expanding new technology being used in the construction of elevating devices. Recent technological advances include microprocessor controls, plug-in trouble shooting, solid state circuit boards and, not least, talking elevators that tell the passengers the floor number.

Branch activity in the area of elevator safety standards has included the testing of elevator doors, instigated by three separate elevator accidents. The tests resulted in the upgrading of elevator code requirements. Considerable work has also been done on ski-lift standards, particularly in connection with structural testing. In addition, existing standards covering elevators for the physically disabled are being expanded to cover lifts in private homes.

The branch field operation was reorganized at the end of March. The reorganization coincided with the implementation of a new computer system.

Finally, in May of this year the branch launched a study of amusement rides operating in the province. The study is examining the need for, and the possible content of, provincial regulations covering these devices.

Over the last year, the fuel safety branch has continued to work toward minimizing both real and potential hazards in the transportation, handling, storage and use of liquid and compressed fuel products. This was accomplished through inspection and audit activities, the investigation of accidents and the education of the public and workers in this field by means of a co-operative effort on the part of industry, other ministries and provinces. This same co-operative approach was taken in the drafting and writing of safety standards and codes and regulations.

5:10 p.m.

The expanding use of alternative fuels has, predictably, resulted in an increase in the work load of branch staff. Changes in propane regulations became effective this year. They deal with new component requirements and safety features as well as the introduction of a mandatory safety inspection program for all propane-powered vehicles. Inspection stations are now being set up by the Ministry of Transportation and Communications, and a publicity campaign concerning the inspection program has just been launched by my ministry this month.

New regulations for the use of compressed natural gas in over-the-road vehicles have also been developed. They are being refined with the co-operation of the industry, and by the close monitoring of a number of private sector pilot projects.

Liaison with the gas industry has continued on the subject of mandatory inspection of chimneys and gas-fired appliances used in the home. The discussions have resulted in a five-year program by the gas utilities involving the systematic inspection of chimneys in all dwellings with natural gas systems. A newly updated regulation on gas pipeline systems was also filed. It will apply to the utilities distributing natural gas to 1.4 million Ontario consumers.

Education of the Ontario public about the hazards and safe use of propane and other fuels continues to be important. News releases, such as this summer's Propane Refrigerator Warning, will continue to be issued on a regular basis. A pamphlet entitled Living Safely with Propane was reissued to provide updated safety information.

Incidents over the past years, such as the time when someone filled a jerrycan with propane on a cold winter's night, or, more recently, when an attempt was made to drain what sounded like water from a propane tank but which was in fact liquid propane, have demonstrated to the ministry that a continuing effort is required to educate the public in the safe use of propane. These types of incidents may sound rather incredible, but unfamiliarity with a new technology can make for strange accident reports.

Approximately 148 man-days were spent in the ongoing development of safety standards through direct and indirect participation on standard-setting committees such as the Canadian Gas Association and the Canadian Standards Association.

A two-year inspection program by summer students was also launched to locate abandoned underground gasoline storage tanks at previously licensed facilities. A total of 3,818 sites were visited, and 633 suspected locations with tanks were identified.

In addition, during 1984-85, at least three demonstration programs will be started to evaluate methanol-ethanol-gasoline blends as suitable motor fuels for Ontario's rugged climatic conditions. Such alcohol and gasoline blends are gaining considerable acceptance in Europe, the United States and South America as a means of reducing the dependency on petroleum products.

Mr. Elston: Are you doing those in conjunction with any other ministry, the Ministry of Energy or whatever? Is it a joint effort?

Hon. Mr. Elgie: Yes, it is a joint effort.

Mr. Elston: And you are also co-operating, for instance, with the Ministry of Agriculture and Food, and whatever, in terms of defining the areas from which you expect—

Hon. Mr. Elgie: The methanol to come from. **Mr. Elston:** —the methanol.

Mr. Crosbie: I cannot say that we would get involved in the actual agricultural aspects, the growing of products—

Mr. Elston: As you probably know, it is of interest to persons in my area since that is one of the initial proposals for the Bruce energy centre. Of course, the results of that study would be of interest not only to us but certainly to the agricultural community around there. I am just wondering if that is being co-ordinated.

Hon. Mr. Elgie: Could we just look into that? Joanne, would you make a note to look into the makeup of that committee? I think Murray has made a good point. If the Ministry of Agriculture and Food is not involved, it probably should be. It would make an important contribution, since that is really where ethanol and methanol would come from.

Mr. Swart: What about forestry?

Mr. Crosbie: Forests; that is right.

Hon. Mr. Elgie: As for the issue of improved training of people working in this province, arrangements have been made with 15 community colleges to conduct qualified exams for licensing those working in the natural gas, oil and propane industries.

When you consider the size and extent of the branch's licensing and inspection role, the importance of computerization is apparent. The staff examine and issue certificates to almost 22,000 natural gas fitters, more than 23,000 propane fitters, about 7,000 oil burner mechanics, and almost 1,900 pipeline inspectors. Licences are also issued to operate 1,300 propane transfer facilities, more than 8,000 service stations, 770 bulk petroleum storage plants, 3,500 gasoline, diesel fuel, fuel oil and propane transporters and 44 pipeline operations. Finally, there are 4,100 contractors registered under the two Acts.

I think the members will agree that is quite a shopping list. Putting that list on a computer will be studied this year. To date in 1984, the branch has received more than 41,000 telephone inquiries.

To bring to a close my review of the technical standards section, I will finish off with the division's most famous unit, the upholstered and stuffed articles branch.

Mr. Elston: We spent some time last year discussing the number of employees in that section relevant to the loan and trust companies' inspection employees.

Hon. Mr. Elgie: The quality of down-feather filled articles continues to be an area of considerable concern to both industry and the branch. During 1983-84, revisions were made to the standards for this product and the test methods used to confirm product quality. The manufacture and sale of down and down-feather filled products is very competitive and the branch is continuing to work closely with the Canadian Down and Feather Products Association and with industry, in order to prevent product misrepresentation.

Mr. Elston: Do not duck your reponsibilities. I just hope Mr. Swart is not going to bring in another chesterfield to—

The Acting Chairman (Mr. Williams): To see if we can stuff the chesterfield.

Hon. Mr. Elgie: The number of overseas manufacturers registered to sell stuffed articles in Ontario continues to climb, up from 795 to 915 over the past 12 months.

Mr. Elston: How do you deal with stuffed shirts?

Hon. Mr. Elgie: We do not have any in this building, fortunately.

The subsequent increase in the number of articles imported for sale in Ontario requires increased vigilance on the part of the branch to ensure that these products are of acceptable quality and correctly identified as to content.

Although the name of my ministry would seem to indicate that it deals almost exclusively in broad consumer issues, a major side of its operation is that of public record keeping. In the face of fast-paced social and economic changes, the long tradition in this province of accurate public record keeping becomes even more important—and I am talking here of the ministry's companies branch, its property rights division and the office of the registrar general.

The 1983-84 fiscal year produced the highest work load levels in the history of my ministry's property rights program. In terms of manpower, it remains the largest part of our diversified operation, carrying out its important work with little fanfare or media attention but nevertheless providing a service which is indispensable to the workings of our society.

In the real property registration branch, as I have already noted, record work load levels were a major characteristic of last year's operation. A

volume of more than 1.3 million registrations surpassed the previous high level of 1977-78 in our real property registration branch. June of last year represented the single highest month of registrations the program has experienced.

Our forecasts for the 1984-85 fiscal year indicate a slight reduction in volume. Predictably, these very high work load levels placed considerable strain on the resources of the program last year, but we anticipate that an easing of registration volumes will lead to improvement in public service levels.

The program opened new office buildings in St. Catharines and Cochrane during 1983-84, and this year planning and construction continues for new offices in Ottawa, North Bay, Bracebridge and Glencoe. I was pleased to be present for the opening ceremonies of the Welland office, along with my colleagues Mr. Swart and Mr. Ashe. We also intend to relocate the three Toronto offices in order to alleviate some difficult accommodation problems.

Mr. Elston: Is there any consideration at this point about closing offices? There was at one point, for instance, a consideration about the Glencoe office, and obviously that has been shelved.

Hon. Mr. Elgie: I have heard no discussion of that. I have had no discussion of that before me.

Mr. Elston: So are you going to go along with the current number and location of those offices, other than the Toronto offices?

Hon. Mr. Elgie: Toronto is just relocating; there have been no proposals put forward by staff to me for consideration.

5:20 p.m.

Mr. Elston: I remember that caused serious concern in the area of my part of the province where, in fact, Durham was under investigation at one time, and Glencoe, and a couple of others—Glencoe, I think, mainly because it is a split registry office. There are two in Middlesex county.

Hon. Mr. Elgie: At the moment I have nothing like that.

Mr. Elston: It is nice to know that it is-

Mr. Swart: I think there are still some concerns across the province about that, but I presume we will have a chance to go into more detail on that when we get to the particular vote.

Hon. Mr. Elgie: Members of the committee, I am sure, are familiar with what is called the Polaris project—the province of Ontario land registration improvement system—which is

aimed at improving the land registration process in Ontario. I can tell the members that two major service improvements will occur in the current fiscal year.

The land registration system is one of Ontario's oldest institutions. In fact, this province has regulated the registration and protection of land interests since 1795.

As it began then, so it remains today: very much a manual, pen-and-paper, filing-cabinet system of record keeping. There are now more than 40 million paper documents stored in the system, with more than a million being piled on each year. Keeping those documents safe, warm and dry now requires 80,000 square feet of storage space, and an additional 2,500 square feet is needed each year.

It is little wonder, then, that the system has often been unable to provide the speed and flexibility of information that many of its users require. If ever there was a system that lent itself to computer technology, it was the land registration system, and I am pleased to assure you today that that help is on the way.

The Land Registration Reform Act, 1984, received royal assent in June of this year. The passing of Bill 66 will enable us to make these improvements in the near future, providing first for the use of new short forms for registration and, more important, for the introduction of automation in land registry offices.

This new legislation will bring about a significant change in land registration. By simplifying and consolidating a number of documents into a few, we will virtually eliminate the need for affidavits. The results of these changes will include a significant reduction in cost to the legal profession in preparing documents for registration. Similarly, we anticipate that savings will materialize in our own offices as we reduce the need for files and the expensive space they occupy.

The new documents will be tested in Oxford county starting this fall. After any necessary changes are made, we plan to introduce them for province-wide use next year.

Project teams are being organized to train registry office staff, solicitors and conveyancers in the use of the new documents. The teams will visit every land registry office in the province to provide staff training. Our solicitors will be meeting members of the various bar associations throughout the province to explain the new legislation and use of the new documents.

The legislation will also permit us to harness the power of the computer for direct use by the public in the Oxford county prototype area this November. This automated system has been operating for approximately 18 months, parallel to the existing system, and we have made significant refinements, incorporating a number of suggestions made by staff and users. When successful operation of the prototype is achieved, the system will be introduced gradually, as time and resources permit, on a controlled and steady basis across the province.

Another major undertaking is the development of an automated mapping program. Since property mapping is an integral part of a provincial land information system, this ministry is participating in a Board of Industrial Leadership and Development project which involves other government ministries, municipal governments and private industry.

This unique co-operative undertaking will complete a series of projects leading to the development of automated municipal information systems designed to serve as a model for all municipalities in the province.

These changes have evolved out of recommendations made by the Ontario Law Reform Commission in 1971. I feel I am on safe ground when I say that I cannot recall another piece of legislation that has involved so many people over such a prolonged period of time.

Although it has long been obvious that change was needed, the challenge lay in selecting and implementing change that would prove both beneficial and practical. The ultimate objective was to improve service to the public at a cost the government could afford.

In 1972, the ministry created a management committee to follow up on the law reform commission recommendations.

From 1973 to the present, project teams have completed studies relating to the legal, survey and systems aspects of land registration. A thorough investigation was conducted, not only of Ontario's system but of those in other jurisdictions as well.

In 1977, the property rights division issued a report that recommended the application of high technology to the land registration system. That recommendation was later endorsed by cabinet and a project team set up to bring improvements to the system from the drawing board to the operational stage.

That project team, known as Polaris, has worked tirelessly to bring the system to where it is today with the Woodstock high-tech prototype land registry office.

In a system with 65 offices, a prototype computer operation in one location is a small first step, and while we hope to be able to move into other registry offices within a year it may take from 12 to 15 years to computerize the entire land registry system.

Most of all, it is going to take time to complete the enormously labour-intensive task of entering data from several thousand tons of records into the central computer. That, of course, will also take money.

We estimate the total cost of computerizing the system at about \$30 million, but there are cost benefits to be realized through savings incurred. To date, we have spent about \$4.2 million on the entire program, \$350,000 of which was used to set up the prototype in Woodstock.

One very major question will remain unanswered until the computer system is up and running. The question is whether Ontario should convert entirely to a land titles system or maintain its present mix of land registry-land title offices.

The province currently operates two land registration systems, land registration and land titles. The land titles system, introduced in 1885, is generally seen as preferable for safeguarding land interests. The original registry system, on the other hand, is preferred by some who believe it affords easier document registration. There have been arguments voiced in favour of each system, but proper comparison of the two systems will require information that will not be available until after the computer system is operational.

We do not want to be too hasty about choosing one system over the other, because we could make an expensive mistake. It has been estimated that it would cost between \$60 million and \$100 million to simultaneously convert to the land titles system and computerization, so we want to be certain to take the best route available before buying our tickets on that train.

Work load was also the major story at the personal property security registration branch, increasing by 16 per cent for registration and by 12.8 per cent for inquiries. Notwithstanding these increases, the service level to the public was improved substantially with waiting times cut in half. This achievement was realized primarily by increased efficiencies and hard work by staff.

The advisory committee on the Personal Property Security Act, ably headed by Mr. Fred Catzman, has been reviewing our legislation. After a great deal of time and effort, the committee tabled an excellent and comprehensive report in April of this year.

After the report was reviewed by ministry officials, it was distributed to interested organizations in the financial and business communities, as well as to the Canadian Bar Association. Copies were also sent to all law libraries and law reform commissions in Canada. An executive summary has been prepared and was distributed to the members of this House. Comments were invited on the report and that response is now being reviewed by the advisory committee. A final report will be submitted to me soon.

Following completion of that final report, I plan to introduce a revised Personal Property Security Act in the House. We hope that one of the major amendments will accommodate corporation securities within the framework of the act and thereby permit the repeal of the Corporation Securities Registration Act.

5:30 p.m.

A long-term planning review of the personal property registration program was recently completed. The study made a number of recommendations, the most significant of which is that the current computerized registration system should be completely redeveloped. This recommendation was made primarily because of new advances in computer technology since our system was originally designed and installed eight years ago.

In addition, there are new needs the present system cannot accommodate; for example, the Repair and Storage Lien Act proposed by the Ministry of the Attorney General, and the proposed revised Personal Property Security Act. If this recommendation is adopted, it will have a significant impact on the branch.

The next step in the process would be a detailed planning study to determine the feasibility of the proposals. These include variable registration periods, terminals in branch offices, on-line recording of registrations, terminals in vehicle registration offices, terminals in users' offices for inquiry purposes, and sentinel registrations for nonconsumer loan transactions.

A branch of the personal property security registration system will be opened this fall in the Newmarket land registry office. This is in keeping with our policy that there should be an office in each county/district/region in Ontario, and will bring to 48 the total number of offices offering PPSR over-the-counter service.

As a final note on this part of my ministry's operation, I am very pleased to report that our ongoing efforts to upgrade the service to the

public in both French and English has also proved successful in this program. Bilingual operators have been hired to offer PPSR service in designated areas of Ontario.

Turning now to the companies branch: if an increase in the number of new companies, partnerships and sole proprietorships being registered is any sign of economic success and good times, then I think every member of this committee will be delighted to know that there is a growing work load at my ministry's companies branch.

The hard-hitting recession of 1981-82 led to a predictable decline in incorporation activity, but we saw that decline wiped out last year. By the end of the last fiscal year, the companies branch had handled a seven per cent increase in business.

Slightly over 29,000 new incorporations were registered, bringing the total number of corporations on file in Ontario to some 315,000. The number of sole proprietorships and partnerships registered with the branch last year also jumped by seven per cent to almost 70,000, bringing the total number of these generally small and entrepreneurial organizations to almost 389,000.

I do not want to bore or confuse members of the committee with long lists of numbers, but I would add that almost 243,000 searches of corporate records were carried out, up by about three per cent, and about 98,000 searches of partnership records. This can be attributed to increased business in general, and to the fact that the public has become more aware of the extent of customer service available from the companies branch.

Over the past year, there has been a considerable number of accomplishments and new initiatives in this area of my ministry. The Business Corporations Act, 1982, was proclaimed in July 1983, completely revising the law as it relates to Ontario business corporations.

I do not think it is boastful to say this puts Ontario in the forefront of corporate law. Every single Ontario business corporation in good standing was affected by the change. The transition was as smooth as expected, however, because corporations were given a full year to conform to the provisions of the new act.

Under the terms of the legislation, share-holders' rights have been substantially expanded to allow them to put forward proposals at shareholders' meetings. In addition, share-holders opposed to certain measures or business deals can now protest by dissenting and requiring that the corporation buy them out.

A remedy for minority shareholders and creditors who feel their rights have not been respected was also included in the new act, allowing them to apply to the Supreme Court of Ontario for relief from any action considered by them to be so prejudicial to their interests as to amount to oppression.

In a further move to lighten the paper burden, the new act exempts nonoffering-private-corporations from audit requirements if the shareholders consent, and providing that the firm's assets do not exceed \$2.5 million and its sales do not exceed \$5 million. The act also permits destruction of certain records after six years, if the appropriate tax authorities consent.

In 1983-84, over-the-counter incorporation was further decentralized to a total of seven land registry offices. Peterborough and Kingston were added to the list of Windsor, London, Ottawa, Sudbury and Thunder Bay. Decentralization expedites the incorporation procedure, saves transportation costs and time, and overcomes the delay in dealing with the ministry by letter. Expansion of this localized over-the-counter service into Hamilton will take place early in November. Further expansion currently is being assessed.

The availability of forms in both official languages was also increased. Bilingual forms are now available under the revised Business Corporations Act, as are deficiency notices under the Business Corporations Act and the Corporations Act, new certificates of status for corporations, as well as bilingual partnership stamps for certificates. Bilingual forms and instructions are also available for transactions under the Partnerships Registration Act and the Limited Partnerships Act.

Further in this same area, an additional bilingual employee was hired in the partnerships section to provide telephone and in-person French-language service. Currently, any client who contacts the branch directly by telephone or mail will be served in their choice of either language.

Companies branch will now accept documents in English, French, or a bilingual format from businesses and nonprofit groups wanting to register or incorporate in Ontario. In the past, French documents were not accepted and all pertinent material had to be supplied in English. Now, documents will be accepted without the need for an accompanying translation.

Some documents, because they must be accessible to all members of the public, will be forwarded for translation to the government's

translation bureau. Articles under the Business Corporations Act and affidavits filed under the Corporation Securities Registration Act which have been completed in French only will be translated at no extra cost to the registrant.

Both English and French versions will be placed in the public file. Applications submitted in French for letters patent, or supplementary letters patent under the Corporations Act will be translated and issued in a bilingual format. Information notices filed under the Corporations Information Act and declarations made according to the Partnerships Registration Act can now be completed in either language.

I should add that fees of \$20 and over for services provided under the Business Corporations Act, the Corporations Act, and the Corporation Securities Registration Act were raised consistent with the government constraint guidelines to reflect processing costs and inflation. The increase is expected to bring in \$400,000 in revenue and continues the user-pay approach used in dealing with this branch's clientele.

The space available for the use of the public in the companies branch public office was expanded to make over 50 per cent more floor space available. Additional furnishings and equipment were added to meet customer service needs created by an increasing volume of in-person searches.

The branch hosted the 1984 Canadian Association of Corporate Law Administrators conference this past August. Registrars of corporation branches from across Canada and representatives from the United States of America attended to discuss and share items of mutual interest, including names-granting requirements, new and pending legislation, and ways and means of reducing red tape for the jurisdictions' client groups.

The new Extra-Provincial Corporations Act was introduced in the Ontario Legislature and received royal assent in May of this year. The main feature of this statute is the removal of the special licence requirements for Canadian companies incorporated outside Ontario. Only corporations incorporated in foreign jurisdictions will be required to obtain an extraprovincial licence. Consideration is being given to a January 1, 1985, proclamation date for this legislation.

As for this current fiscal year and plans for the future, amendments to the Business Corporations Act have been recommended for the fall session to further assist corporate registrants under the Securities Act who are proposing to go public. These amendments will also help us to

deal with certain issues that have come to light since enactment.

5:40 p.m.

Internally, a systems feasibility study is being undertaken to investigate the possibility of automating the processing of Canadian corporations, to reduce the manual work now being performed by branch staff and to improve the timeliness of the data in our records. A feasibility study of the companies branch information system is also under way to determine what improvements should be made in the efficiency and effectiveness of the existing computerized information system.

Finally, the companies branch is handing out a free copy of the Ministry of Industry and Trade's information booklet, Starting a Small Business in Ontario, to all those who register either a proprietorship or partnership. It is anticipated that a similar service will also be provided for all new corporations this year when the branch, in co-operation with the Ministry of Revenue, distributes information about reporting requirements under that ministry's Corporations Tax Act.

As I said in last year's speech to this committee, the registrar general's operation may not seem to be an area of much political contention, but its importance to the orderly and honest functioning of society remains as important as ever. Registrations received in calendar 1983 increased significantly over 1982, up by 13,850, or about five per cent. Births and deaths continued a five-year upward growth trend, but marriages appear to have peaked in 1982.

The total volume of all certificates issued in 1983 increased by about 9,000 over 1982 to a grand total of more than 410,000. This was due mainly to the increased number of marriage certificates issued.

In mid-1983 we started encouraging couples to order a marriage certificate following the ceremony. Apparently, many people were unaware of the availability of wallet-size marriage certificates. We are continuing to encourage couples to order wallet-size certificates and anticipate that in 1984 we will issue in excess of 23,000 of this variety.

Mr. Elston: Can you get two for the price of one?

Hon. Mr. Elgie: Two marriages for the price of one?

Mr. Elston: No, two certificates for the price of one. I presume that you would like each of the

parties to the contract to be entitled to a copy of the certificate.

Hon. Mr. Elgie: I am sure that when the registrar is here she will be glad to outline the details of the program to you, and to accommodate whatever needs you present that seem rational and responsible.

Mr. Elston: That is our traditional role.

Hon. Mr. Elgie: It used to be your traditional role.

In last year's estimates speech, I reviewed at length the new computerized vital statistics information system. I am pleased to report that the system is working well, and, as of August 31, birth records back to 1930 had been included in the data base. By the end of the year, the index of births from 1869 to 1929 will be automated. As a result, the system will provide the registration numbers for these years and thus alleviate work load pressures in the index section.

Automation has also allowed us to readily provide statistical data to the research and medical communities and the general public. This year, we extracted a listing of the most popular children's names during 1983. Michael and Jennifer ranked number one on the his-and-her hit parade. My own Christian name ranked ninth, while the Premier's came 21st.

By the way, David Peterson's name happened to come fourth on the list because of David, but I do not think the opposition should take heart from that fact. In any event, I do not think being fourth would satisfy them very much anyway.

Mr. Swart: I would not dare ask for my name on the list.

Mr. Elston: The list does not go that far.

Hon. Mr. Elgie: Just think of what would have happened if you had kept Michael. Michael ranked number one on the hit parade.

Mr. Swart: I do not think that is very significant politically.

Hon. Mr. Elgie: On a more serious note, we will shortly be investigating the feasibility of the automation system's third phase. The objective will be to implement a microfilm system linked to the vital statistics information system that would permit storage of all hard copy registrations and provide for automated retrieval.

Amendments to the Vital Statistics Act are now being drafted to ensure equality in the naming process. The act has clearly fallen behind the times. The last major revision was 36 years ago.

As the act is currently written, a child's last name must be that of the mother's husband, or

that of the father if a single mother elects to name the father. In other words, a single mother is still forced to raise her child with a name that very well may be different from her own. I find that fact both unfair and unhealthy, and I am committed to changing the legislation. That drafting is under way.

Mr. Elston: You had some assistance from our former colleague here, Mr. Boudria, along those lines.

Hon. Mr. Elgie: He was always very supportive of that, as was Mr. Cassidy from Ottawa and as my own colleagues have been. I do not want to name everyone, but I think there is a certain nonpartisan interest in achieving equitable solutions to the problem.

Mr. Elston: I was just giving an example of that fair-minded and constructive role that the opposition has been playing.

The Acting Chairman: If we do not have any more interruptions we might get through the section on the registrar general before we adjourn to take the vote—

Hon. Mr. Elgie: As well, a new, modernized Change of Name Act is now being drafted. On its introduction in the Legislature this legislation will be transferred from the Ministry of the Attorney General to the Ministry of Consumer

and Commercial Relations. While long-term trends focus on a declining per capita birth rate, it is anticipated that the overall volume processed by the office of the registrar general will continue to remain relatively stable, edging slowly upward.

For example, between 1979 and 1983 the number of births recorded in Ontario rose by 6.7 per cent, from 121,000 to 129,000, while deaths rose by 7.4 per cent, from 61,468 to 66,044. Marriages, on the other hand, rose by 5.9 per cent, from 67,980 to 72,018, during the same five-year period.

On hearing these figures I suppose the media will be tempted to write a light-hearted story on how death is becoming more popular than marriage in Ontario, but I can assure you it only seems that way.

That is the end of that section.

The Acting Chairman: That is an appropriate spot to break and give you a chance to relax the—

Hon. Mr. Elgie: Vocal chords.

The Acting Chairman: -vocal chords. We will get upstairs for the vote, and continue tomorrow morning.

The committee adjourned at 5:48 p.m.

CONTENTS

Thursday, October 25, 1984

Opening statement: Mr. Elgie	J-344
Adjournment	J-365

SPEAKERS IN THIS ISSUE

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Elston, M. J. (Huron-Bruce L)

Kolyn, A.; Chairman (Lakeshore PC)

MacQuarrie, R. W.; Vice-Chairman (Carleton East PC)

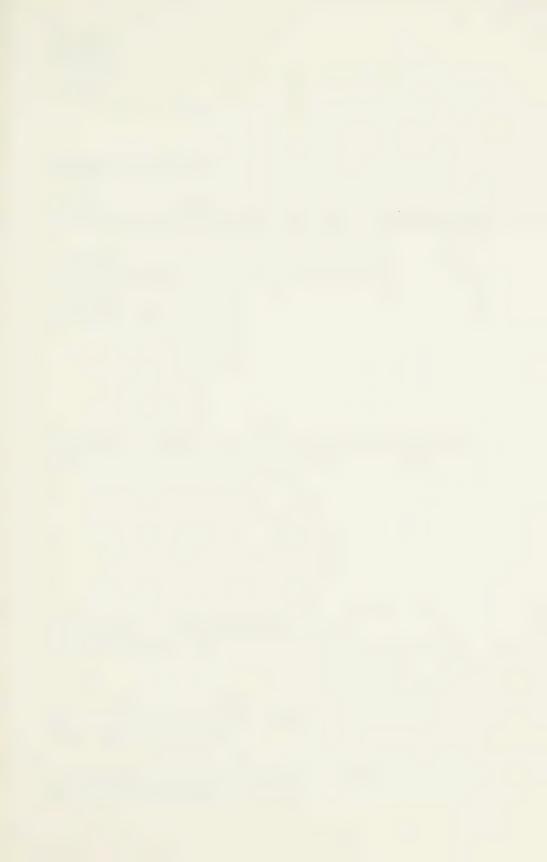
Swart, M. L. (Welland-Thorold NDP)

Williams, J. R.; Acting Chairman (Oriole PC)

From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister









Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament Friday, October 26, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC



CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, October 26, 1984

The committee met at 11:33 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Ladies and gentlemen, I see a quorum.

I believe the minister has not yet concluded his statement. Would you please continue?

Hon. Mr. Elgie: Mr. Chairman, turning to the final area of my ministry's operations, I will now review, for the benefit of committee members, the activities of the theatres branch, the Ontario Racing Commission, the Ontario Athletics Commission and the lotteries branch. Again this year, at least for the purposes of this presentation, I will include the Liquor Control Board of Ontario and the Liquor Licence Board of Ontario under this same general category.

In my last estimates speech before this committee, I opened that portion of my address dealing with the theatres branch and the Board of Censors with the observation that, ironically, it attracted some of the strangest editorial opposition in its history while, at the same time, winning even greater public support than ever before. In my opinion, that remains as true today as it was then, perhaps even more so.

In February of this year, my ministry published the results of an extensive consumer issues survey carried out, on contract, by professional researchers. One of the many issues examined was that of film and video classification and control in Ontario. It painted a picture of a concerned and caring public that has weighed the differences between freedom and licence and, after considerable thought, come down on the side of their community and children.

At least part of the reason for this attitude has been the consistently fair and reasonable role played by the censor board in reflecting community standards in its day-to-day decision making.

The survey also revealed a public struggling with its own values and conscience. A close reading of the material shows that while 61 per cent of those with an opinion supported the concept of film classification and censorship, a far higher proportion were personally opposed to the portrayal of sexually exploitive and often

violent material on the public movie screens of this province.

In other words, the Ontario public is cautious about inflicting its own morality and sense of right and wrong on the community at large, and that is a good sign. We should all be cautious and concerned when we empower institutions to limit anyone's freedom of expression.

The bottom line here is that, after wrestling with its conscience, the public has come down on the side of some enforced level of minimum standards. In a sense, they have examined the motives and impact of those who would profit from the portrayal of violent rape, the degredation of women and the sexual exploitation of children, and compared them with those of a government-appointed agency of their peers that would judiciously limit such screen portrayals. It is not surprising that they favour the latter.

Formal studies, such as this one, are now carried out every four years or so by my ministry, but perhaps an even more important reason for the board's accurate reflection of the community's values is its relationship with that community. The board members come from all walks of life, from across the province, and both they and the chairman participate in frequent community dialogues and conduct their own informal samplings of local public opinion. The board does its tough job well because, in a very real sense, it is the community.

Before I touch on the legal status of the Theatres Act, or on the revisions now before the Legislature, I first want to review in numerical detail exactly what it is that the board has done over the last fiscal year.

In the flurry of single-issue oriented reporting, I think sometimes the broad role of the board is overlooked. To start with, the board's overall business continues to grow. The total of submissions during the 1983-84 fiscal year reached more than 2,300 films and videos of all sizes and formats. Only 3.8 per cent required cuts before being licensed for public screening, while less than one per cent were not approved.

"Not approved," by the way, is a decision that is not taken lightly by the board. It is only applied when the number of cuts that would be needed to meet even minimal community standards is so large that the continuity of the film would be

destroyed. The distributor, of course, is welcome to edit the film and resubmit it for the board's consideration. In fact, this happens frequently and upwards of half such films are eventually approved for distribution.

Of the greatest interest to most people are the big-screen, 35-millimetre, feature film productions that they are likely to see at a commercial movie theatre. A total of 658 of this category

were submitted to the board last year.

It may be of interest to the committee members to learn the countries of origin of the big-format films initially rejected by the board. At the top of the list was our closest neighbour, the United States, with more than half. European films made up 24.5 per cent, while films produced in Hong Kong came a close third with more than 20 per cent. There were no films on this list from Canada.

As for the classifications given to the bigscreen motion pictures licensed for showing, about 25 per cent received a nonbinding "family" or "parental guidance" classification. The remaining 75 per cent received either "restricted" or "adult accompaniment required under age 14."

This situation would seem to echo the American experience, wherein many movie makers seem to aim their product at the restricted or partially restricted market, reasoning that anything less or, in the American experience, anything more, would be detrimental to box office receipts.

11:40 a.m.

In the United States, where there is no state or federal control over film, many distributors interested in reaching the mass audience will often modify their own product to ensure that it earns a restricted classification rather than the unpopular, so-called "X" rating.

This conscious targeting of film, whether it involves the toning down of explicit scenes or the tarting-up of otherwise straightforward dialogue and action, forms a rather sad commentary on both the industry and our society. Above it all, the maximization of profit lies at the heart of the variables in this issue, not the welfare of the community.

It would be naëve to expect anything else, but the understanding of this fact forms the greatest argument in favour of our own classification and film censorship system, based as it is on guidelines and standards derived directly from the Ontario community.

Such an argument, of course, would be of little importance if all we were doing was pitting the

taste and judgement of one side against the taste and judgement of the other with little at stake except their own respective egos. However, the overwhelming weight of recent research has proven what advertising experts have known all along, and that is, a message repeated often enough and hard enough can affect people's attitudes and behaviour and, at the very least, can desensitize them to the kind of material that is being presented.

It may make us uncomfortable. It may even challenge our sense of a personal morality, but the research speaks for itself. There would seem to be a direct link between violence and abuse on the screen and the shaping of our attitudes on the street, especially among the young. At the least, such depictions wear down our sense of shock and outrage, leaving us more willing to accept the unacceptable in our society. It is this same connection that has led many European governments to bring in controls over film content.

The members of this committee are aware of the court challenges to the existing Ontario Theatres Act. They are also aware that my ministry has introduced amendments to the act to deal, at least in part, with those challenges. The standards used by the board in reaching its decisions will be included in regulations, thus meeting the requirements of the Divisional Court and Ontario Supreme Court. Those guidelines, however, will remain much the same as their less formally written predecessors, based on the bottom-line standards of the adult community across this province.

This committee is also aware that the proposed legislation now awaiting second reading in the Legislature will expand the board's authority to deal with videotapes sold or rented in Ontario. This was a move we did not take lightly. We felt it was necessary, however, in the face of the almost explosive increase in sales and rentals of exploitive and other sexually violent video material. Clearly, tape is but a 1980s version of film, the difference being that it can be carried home and viewed there.

The legislative initiative to include video sales and rentals under the Theatres Act is twofold in its purpose: to help restrict the flow of pornographic material into the commercial distribution channels of Ontario; and to help video buyers and renters make better point-of-sale decisions by means of the information provided by the board's already well-recognized classification categories and symbols.

On this point, parents currently picking their weekend's video viewing can be forgiven for

thinking that a comedy, for example, might be fun for the whole family when, in fact, this particular film received a restricted classification in its theatrical release. If they had known that the production had been classified as restricted, many parents might choose not to place it on their home television screen while their children are in the room. The presence of a film board classification sticker will be of considerable help to parents in making such decisions.

We are aware of some problems in this area of videotape that remain to be solved. For example, we are currently examining the provisions of the old act to endeavour to meet the needs and concerns of legitimate art galleries which now

display video as a form of art.

In the meantime, however, I intend to introduce the Theatres Amendment Act for second reading shortly, following which I am sure it will receive considerable debate at the committee level. I look forward to that discus-

Turning to the Ontario Racing Commission, the role of the ORC has changed drastically over the past 15 years, from a purely regulatory body to that of both a regulator and administrator of a major racehorse breeding improvement program.

In its traditional regulatory role, the commission keeps horse racing on the straight and narrow in all its forms, including thoroughbred, quarter-horse and standardbred racing-

Mr. Elston: It is often called going around in circles.

Hon. Mr. Elgie: -at tracks across the province.

On the administrative side, it plays a key role, through its sire stakes program, in guiding and improving the quality and quantity of racing horseflesh bred here in Ontario.

This newer role stems from the government's awareness that the horse racing industry makes a substantial contribution to Ontario's economic health. The government realized that some form of support was necessary if the industry's viability were to be maintained and enhanced.

The Ontario racing industry is an \$820-million business employing more than 40,000 Ontarians. In 1983 it produced some \$57 million in direct tax revenue for this province from parimutuel wagering. In addition, the industry has had a major impact on other sectors of the economy, particularly in the farming and agricultural areas, and contributes significantly to the quality of life of many of Ontario's small communities.

Thirteen years ago the Ontario Racing Commission rebated to the industry about \$1.7 million out of the \$20 million collected in taxes from Ontario's racetracks. During the 1984-85 fiscal year, almost \$20 million will be rebated. Please remember, however, that, even considering such a high level of support, the government's net tax revenue from horse racing is approximately \$40 million. This figure does not include municipal taxes, sales taxes, business taxes, personal taxes or the various licensing fees paid by participants.

Clearly, horse racing is an important industry in this province and it is not difficult to understand why we play a strongly supportive role. The benefits, particularly of the commission's sires stakes program, can be seen in the rising selling price of Ontario yearlings. In the case of Ontario-sired standardbred yearlings, the average price of the top 50 animals increased dramatically over the past 10 years, climbing from \$7,500 in 1974 to more than \$35,000 last year, a sale price that compares very favourably with North America wide averages.

On the thoroughbred side, the average price paid for the top 50 Ontario-sired yearlings increased from less than \$16,000 to almost \$76,000 between 1974 and 1983. In the case of total sales of yearling thoroughbreds, Ontario moved from fifth place in North America in 1980 to fourth place in 1983. Gross sales more than doubled in that period, climbing from \$6.6 million to \$13.5 million.

These improvements are helping to attract considerably increased levels of foreign investment, with Americans and Europeans buying, training and racing their animals here in Ontario. Our racing and breeding community has become one of the strongest in North America. For example, in 1968 there was only one two-minute mile event in harness racing, the industry standard of excellence, held on Ontario tracks. In 1983, 550 such races were contested. In addition, Ontario has produced a number of outstanding and internationally recognized thoroughbred champions.

While this information tends to indicate a very progressive and flourishing industry, one segment of the industry that continues to experience negative trends is the racetracks themselves. Statistics show that track attendance continues to decline and in 1983, for the first time, wagering dropped by some \$30 million. If this trend remains unchecked, the closure of some racetracks will become a very unpleasant possibility. The economy and the fierce competition with

other forms of entertainment for the public's leisure-time dollars are considered the primary causes for this downward trend.

The Ontario Racing Commission, in concert with industry representatives and myself, is exploring various possibilities in an effort to counteract this unfavourable situation. It should be noted that the difficulties being experienced in Ontario are not unique. Horse racing was the number one spectator sport for 31 years in North America, but surveys show that baseball pushed its way to the top in 1983.

Mr. Swart: Stock car racing has surpassed it.

Hon. Mr. Elgie: Has it?

The Ontario Racing Commission has put forth recommendations based on the study completed by the management consulting firm of Thorne, Stevenson and Kellogg. These recommendations are currently under consideration.

The year 1983 witnessed the inaugural of the Ontario-Quebec series for two- and three-year-old pacers. This series provides a promotional vehicle for our Ontario-bred stock, producing positive media coverage and increasing the visibility of the sport in Ontario. In the initial series of four events last year, Ontario was extremely successful. Ontario-sired horses won all four events and combined earnings of more than \$156,000 out of a total of \$200,000 in purses. In the second series this September, Ontario-sired horses won an even higher percentage, \$169,500 out of \$200,000 in total purses.

11:50 a.m.

The Ontario Racing Commission, working with the Canadian Trotting Association, approved an electronic eligibility system for standardbred horses. The new system, implemented in September 1984, will eliminate the necessity of presenting a hard-copy eligibility card for horses at racetracks, will facilitate records management and control over the movement of horses from track to track and, finally, will expedite the process of determining a horse's eligibility to race.

The commission is also engaged in negotiations with the data processing staff of the Canadian Trotting Association and the Ontario Jockey Club to computerize the accounting and statistical functions of the standardbred Ontario sires stakes program as well as all of the existing thoroughbred manual licensing functions. This proposed conversion should result in more efficient and effective operations.

The commission will continue to monitor closely the results of the Ontario improvement programs and the unfavourable trends affecting racetracks. Further, it will continue to meet with industry groups to discuss issues affecting all horse racing in Ontario.

Although the Ontario Athletics Commission technically comes under the my ministry's business practices division, for today's purposes I have grouped it under the heading of "Entertainment Standards." The logic of this becomes apparent when one realizes that the commission's responsibility is solely the regulation and supervision of wrestling and professional boxing.

The office of the athletics commissioner was created in 1928 to ensure standards of good conduct and safety in the combative sports. The commissioner continues to play a major role in maintaining a good safety record for Ontario fighters.

This year the passport system of boxer registration used in Ontario continued to be effective, despite difficulties in determining accurate information about the record of boxers from outside the province. A similar passport system is in use in New York state and Quebec, but unfortunately many jurisdictions do not use the system yet. The information problem is made even more difficult when fighters arrive here on short notice from jurisdictions such as Ohio, where there is no state boxing authority at all.

I can assure the members, however, that fight managers and promoters are being told that if they are found to be dishonest about their fighters' past ring record, they will be prohibited from bringing any more fighters into Ontario.

Just over a year ago my ministry released the results of a three-month study by an independent committee into the safety and conduct of those martial arts known as kickboxing and full-contact karate. Although the report was very critical of boxing in general from a medical point of view, it found very little difference in relative safety between kickboxing, if certain controls were in place, and regular boxing.

Mr. Elston: Kickboxing is something like the Tory leadership convention, I suppose.

Hon. Mr. Elgie: Kickboxing? No, no way. The Marquis of Queensberry rules apply at our conventions.

The report recommended that a complete review of the regulations be aimed at tightening the controls over the promotion and administration of boxing in Ontario.

At that time, I announced that until new regulations were drafted, kickboxing would not be approved in Ontario. Under the Criminal Code, any prizefight is prohibited unless specifically sanctioned by provincial legislation. I can tell members now that draft regulations are completed and the necessary medical monitoring equipment is readily available in major Ontario centres. When these new regulations are approved, the so-called moratorium on kickboxing will be lifted.

In a related development, a new professional boxing rule book has been drafted and will be distributed to people involved in the sport when amendments to the regulations have been passed.

The major highlight of the 1983-84 season was Ontario's hosting of the first world championship junior welterweight bout to take place in Canada. As members may recall, defending champion Aaron Pryor of Cincinnati, Ohio, retained his title in a unanimous decision over Toronto boxer Nick Furlano. Held at Varsity Stadium, it was the first open-air professional boxing match to take place in Toronto in some 28 years.

Turning now to my ministry's liquor licence program, I will start with a short review of the Liquor Licence Board of Ontario. As members are aware, this is the body which licenses distilleries, wineries, breweries and places where alcoholic beverages are sold. This year the board continued its efforts to cope in an orderly way with the rapidly changing social and economic environment of the 1980s, while still acting in accordance with public policy as spelled out in the legislation and its regulations.

The licensing of sports stadia, previously tried on a limited basis, has proved successful and was expanded to include similar professional events at Varsity Stadium in Toronto. Amendments to the regulations have also been made to remove outdated and unnecessary restrictions on premises where liquor is served.

The board continues to be faced with the problem of dealing with a 34 per cent increase in licences over the last three years, while still operating with essentially fixed resources. Last year its total expenditures rose by less than \$50,000. This minimal net increase was achieved by countering increased personnel costs with a reduction in operating expenses.

At the same time, the LLBO's revenues rose by \$26 million to a total of \$236.6 million. When these revenues are set against total expenditures of just \$6.5 million, I think the committee members will agree that the board's operation has a significantly positive impact on overall provincial revenues.

Despite reduced staff levels, the board inspected 9,300 licensed premises during the fiscal year and carried out almost 37,000 spot checks.

I will now turn to an organization that most of the people in this room have probably dealt with many times during their lives, the Liquor Control Board of Ontario. The 1983-84 fiscal year represented the board's 58th year of operation as the means of liquor distribution and sale in this province.

Four new stores were opened and another 11 were either relocated or replaced, to bring the net total of stores in operation to 601. I should add that a dozen of the old-style counter operations were converted to modern self-service stores. This continuing conversion program leaves less than 20 per cent of the LCBO's retail outlets still operating under the old format.

The board opened its new Hamilton distribution depot during the last fiscal year to improve service to Hamilton and Burlington area licensees and residents. The process of mechanizing this operation is currently under way.

Construction has also been completed on the massive storage and distribution centre in Whitby. I am advised that it should be fully operational this fiscal year. The Whitby centre's automated storage and retrieval system will allow for storage of up to 3.5 million cases, the shipping of more than 110,000 cases and the receiving of more than 129,000 cases each and every day. This enormous capacity will be capable of servicing some 360 stores.

In addition to the rare wines and spirits stores in Toronto and Ottawa, the board last year made selected rare wines available in Hamilton, Kingston, London and Thunder Bay. By the end of the fiscal year, the board boasted a total general listing of some 2,359 products, an achievement unmatched in most jurisdictions on this continent.

The LCBO will continue its self-service conversion program this year, as well as plan and open new stores where required. It will also continue to initiate long-term programs to improve customer service and operating efficiencies.

During the 1983-84 fiscal year, the board chalked up total sales through its retail outlets of more than \$1.5 billion, producing a net income for Ontario of some \$542 million. I would add that total beer, wine and spirit sales pushed past the \$2.8-billion mark, including almost \$1.3 billion through Brewers' Retail stores and another \$41 million through company-owned wine stores.

Ontario's privately run lotteries and gaming events provide vital funding for the province's charities and community improvement projects. My ministry's lotteries branch licenses many of this province's charitable gaming events, with the remainder licensed by municipalities in co-operation with the branch. Although abuses can occur whenever large quantities of money are involved, as the recent bingo scandal in Welland sadly shows, I want to emphasize that our staff believes the vast majority of licensed gaming events are run smoothly and according to the rules.

Last year bingo players spent more than \$250 million, a 25 per cent increase over 1982. Out of that total, about half was returned to the public in the form of prizes. The remainder went directly to charity and to cover operating and administrative costs. During the year, nongovernmental lotteries of all types attracted an estimated \$420 million of the public's leisure-time spending.

Monte Carlo nights, with small-stakes gaming wheels and blackjack tables, also continue to be popular–1,522 events were licensed last year—and fall fairgoers lined up to take a chance at 1,800 licensed games.

12 noon

The lotteries branch has worked to help charities reduce their operating costs and improve the profitability of their bingos and lotteries. In addition, the branch has become more directly involved with municipal authorities to help solve local lottery problems. Initiatives have also been taken to monitor and control the activities of noncharitable participants in lotteries. The contribution of the volunteer section in meeting a diversity of community needs continues to grow. I believe private charitable lotteries will continue to be an important source of such funding.

I am sure some of the members of this committee will be relieved to learn that this brings me pretty well to the close of what I think they will agree has been a fairly detailed review of my ministry's external activities and plans.

However, before I close, I would mention that the ministry's newest division, that of support services, is now in its second year of operation. The division is made up of five branches: finance and administration services, communication services, personnel services, systems and internal audit.

Because of the important role played by communications in consumer protection and because of advances in the area of equal opportunity in employment at my ministry, I will confine my remarks concerning this division to its communications and personnel branches.

More than 117,000 telephone, mail and in-person inquiries were answered during the 1983-84 fiscal year by the staff of our consumer information centre at its storefront operation on Yonge Street. Further to this, the news and information side of the communications services branch fielded some 2,500 media inquiries and offered more than 100 news releases and numerous brochures and booklets on a variety of consumer topics.

Of particular note was the completion of a consumer education kit aimed at pre-schoolers, entitled Consumers Start Young. The information centre's education outreach program joined with the Ministry of Community and Social Services and Procter and Gamble Inc. to produce this impressive learning tool for youngsters. A key study approach to consumer buying was also developed and made available to high school teachers and adult educators.

I would also like to highlight the key role played by our news and information staff in the safe diving campaign of the technical standards division. A dramatic television public service announcement received considerable air time again this past summer and newspapers across the province responded with localized speeches on the relationship between spinal injuries and unsafe diving.

As for the personnel services branch, I was pleased with the positive results reported by its affirmative action program and by the new opportunities opened up for women by the branch's accelerated career development program. A comparison of the staff training and development statistics for the 1983-84 fiscal year with those of the previous year reveals a significant increase in female enrolment, particularly in management and supervisory courses. It is the kind of foundation-building activity that will continue to produce impressive results in the months and years ahead.

Before leaving this division, I would point with some satisfaction to the successful start of the quality-of-working-life approach to job and job-site improvement in my ministry and the successful joint union-management education program, a first in the government of Ontario. The latter project has been a pilot program where both union and management officials can learn of each other's experiences and problems in the work place. Continued contact of this type could enhance union-management communication and help resolve issues in the work place.

This brings me to the close of this address. I have not set out here to provide a detailed

explanation for everything we did over the last year, but I do feel I have provided a fairly comprehensive overview of our accomplishments, plans and concerns. Thank you very much.

Mr. Chairman: Thank you. Before I proceed to the critics of the official opposition, I would like to mention that the committee will not be sitting on Wednesdays, but just on Thursdays and Fridays.

Mr. Bradley: Mr. Chairman, in this regard, I am strictly at the mercy of the committee. If we happen to go overtime today and if you want to do this on Wednesday—and I do not know if that is possible—I could complete the statement on Wednesday, not needing any staff here.

I understand Mr. Swart's situation. If you want to do that, I do not care. I could complete the statement my colleague will start today. We would not need any of the ministry staff here. They can read in Hansard what I have said. I am sure they will not be hanging on every word anyway. This would complete that portion and get it out of the way. It is up to you.

Mr. Chairman: Might we consider that possibly you do your statement today, and we could carry on with your colleague's statement on Thursday?

Mr. Bradley: I can go on Thursday as well. It is no problem.

Mr. Chairman: We had agreed we would not be sitting on Wednesdays. I think that would be the best way to go, Mr. Bradley.

Mr. Bradley: If you want to do it that way, it is fine.

Mr. Swart: Besides that, I would not want to miss Mr. Bradley's statement and I could not be here on Wednesdays because—

Mr. Chairman: That is understood.

Mr. Renwick: I certainly would not wish the staff to miss the statement.

Mr. Chairman: Of course not. We always have to educate the staff, I am afraid.

I would also like to mention that the minister has a personal commitment for Friday, November 2. Will the committee agree to let Mr. Williams sit in for him? Is that right, Minister?

Hon. Mr. Elgie: I will leave that totally in the members' hands. It is simply a personal thing for me. If the committee feels that at that stage of things I should stay here, we could change our minds, even at the last minute. In other words, I am flexible.

Mr. Renwick: Why do we not wait until Thursday to see where we happen to be?

Mr. Chairman: That is fine. I just thought I would mention it so you can think about it.

Mr. Elston: I would like to make a decision on the basis of whether we are going to get into any long speeches. I know Mr. Williams is generally concise in his approach to answering questions or approaching positions for the government. Perhaps we could see at what stage we find ourselves in response to the opening statements before we decide whether we will release Mr. Elgie.

Hon. Mr. Elgie: I am quite agreeable to that.

Mr. Chairman: I always thought Mr. Williams was very precise in his comments.

Mr. Elston, would it be possible for Mr. Bradley to proceed and then you could proceed later on?

Mr. Elston: Actually, I was going to commence in any event. He is going to be here next Thursday.

Mr. Bradley: It is no problem. I was trying to help you speed things along, but that is okay.

Mr. Chairman: Thank you. Please commence.

Mr. Elston: If I recall rightly, this is a repeat from last year's estimates. You were talking about being warriors with respect to certain critics and good friends and not warriors with respect to others.

Hon. Mr. Elgie: No. What I said in response to a comment from Mr. Renwick was that since entering this place when I was a gentle young man I had become a warrior. That is actually what I said.

Mr. Chairman: You have the scars to prove it

Hon. Mr. Elgie: And that you were to blame.

Mr. Elston: In any event, as you will realize, I am a new critic in this field. Initially, as a way of getting my feet on the ground as it were, I took some steps to review some of the material which was provided to us last year to find the context of the approach of the minister when he was providing his statements. Much to my delight, I found there really is not all that much that is new in the opening statement between last year and this year.

Basically, we seem to be reviewing the same sort of difficulties which took a great deal of time last year and, proportionately speaking, they are taking about the same amount of time this year, particularly when we come to the Upholstered and Stuffed Articles Act, which seems to comprise a fair bit of concern for the minister.

I noted with particular delight some of the exchanges that occurred last year with respect to the number of employees who were looking after that part of his ministry and the number who were looking after the regulation of the financial industry.

Mr. Bradley: Do not forget the pressure vessels. That is a big one.

Mr. Elston: It seems to me the passage of time has not changed the nature of the difficulties which have faced your ministry over the past year.

12:10 p.m.

Before I get into my remarks in some sort of sequence, the question which comes to mind as an overview of all the remarks has to be to get you to relate to us as opposition people, first, the number of studies you have under way in your ministry, the number of studies you have under consideration—in other words, reports that have been made and are being considered—the number of draft reports you have on hand, the number of final reports and the number of legislative responses you currently are making to them.

It seems to me that almost every section we have talked about comprised a comment or two about someone reviewing something, or a commission reporting somewhere in some phase of those reports. There seems to be a large carryover of unfinished business with respect to the types of activities you were proceeding with last year.

For instance, in reviewing some of the material from the estimates last year, I happened to note that you spoke about activities that were going to be taken with regard to the Loan and Trust Corporations Act. There were also suggestions that there would be reforms to the the Cemeteries Act, the Elevating Devices Act, the Energy Act, the Personal Property Security Act and the Vital Statistics Act.

As I understood it, all of those were going to be updated with some sort of legislation. In particular, concerning the Cemeteries Act, I have taken the liberty of using what I think is a direct quote from what was said last year: "The proposals will be put forth in the form of a bill which could be ready as soon as next spring." That was in November 1983.

With respect to the Energy Act regulations, "Energy Act regulations will also be amended to require that anyone applying to become a licensed propane system installer must first be a licensed automobile mechanic." The amend-

ments have so far not been forthcoming. However, they may have escaped my review because, as you know, I am a recent addition as critic in the area. If I am wrong, I will be pleased to make a comment a little bit later.

With respect to the Vital Statistics Act and the Change of Name Act, we have indications that you are going to be taking some initiative to make changes. However, it is now almost a year since those were given to us. With respect to the Personal Property Security Act, I guess we have a repetition of coming changes.

It seems to me we have not proceeded all that far at this stage. I know you have set yourself a very ambitious agenda, as indicated in your opening remarks with respect to two or three other pieces of legislation.

As a public committee, we ought to know how many studies and how many legislative responses you intend to be making, so we will have a figure. Then we will know what your activities are and what you are involved in. It looks like we have had a year of review, with not too many items forthcoming, even though you have numbered some of your advances with respect to the Ontario Racing Commission and in other areas.

As well, I have received from my former colleague and critic for the Liberal Party of the Ministry of Consumer and Commercial Relations, a letter addressed to the minister on May 31, 1984. It particularly contained questions with respect to the identification of costs, personnel items and the accountability of practices in your ministry. I have to indicate that I have not seen a reply to this letter. Again, I could be corrected on this if my recent entry into this role has prevented me from reviewing the same.

Hon. Mr. Elgie: Is the letter dated May 31, 1984?

Mr. Elston: Yes.

Hon. Mr. Elgie: Whom is it signed by?

Mr. Elston: It is from Mr. Boudria. I could file this for your attention. However, I understand that if these are to be recorded and an answer is to be requested, they have to be read. I would ask the committee to bear with me while I go through these pieces of information for that purpose:

"1. Has the programming planning budgeting system, the multi-year planning system and/or the management-by-results system been applied to any estimates vote item? Which system(s) to which items?

"2. Have management-by-results abstracts been prepared with respect to any vote items? For which items?

"3. Would the minister table results abstracts which have been prepared?

"4. Has any program from the ministry been selected by cabinet for special program review? If yes, would the minister table the results of any such review?

"5. What is the number of internal auditors employed by the ministry, and which programs were reviewed by internal audit this past year? Will the minister table internal audit reports?"

I should say these questions were first put in Orders and Notices; hence the referral to tabling of these reports in this letter. The reason these were addressed to the minister by letter was that there was a reply to these questions, indicating that the proper place for a reply was to address them to the minister and have them answered at estimates time. Where there is a reference to tabling, I am quoting the original question as it was put, and I understand very well that in committee work we cannot table per se.

Hon. Mr. Elgie: Do you want me to answer now or do you want me to deal with it later?

Mr. Elston: It does not matter. If you have suggestions—

Hon. Mr. Elgie: I do not want to interrupt your train of thought.

Mr. Elston: I am just reading these.

Hon. Mr. Elgie: Maybe I will just deal with it later. I do not want to interrupt your train of thought. You carry on.

Mr. Elston: Okay.

"6. Does the ministry engage in any scientific research under any vote item? Which ones? What is the nature of the research?

"7. Has an assessment of the scientific research been conducted by the Advisory Committee on Science Policy?

"8. Has the ministry conducted an intensive review of its major programs? Which ones? Would the minister table the results of any such review?

"9. Does the ministry provide any programs which may, or may appear to, duplicate existing federal or municipal programs? Which ones? What steps has the ministry taken with regard to any duplication of programs?

"10. Has there been an increase or reduction of data processing expenditures in any vote item?

Which ones?

"11. Has the ministry absorbed, within its estimate, all in-year cost increases resulting from inflation?"

That series of questions was posed originally, as I indicated, through Orders and Notices

questions and the reply was that we should ask them in estimates. That is why we are providing those to you now.

I have several areas of concern we have to deal with. I should start by taking a look at the financial institutions and trying to run through some of the items that come to my mind. I must apologize if there seems to be a disjointed approach to the questions I am asking. As you can appreciate, it is difficult to review the massive amount of information available in this ministry and to put it into some kind of context that would appear to carry some line of consistency throughout the whole matter.

One of the major difficulties in the province with respect to the ministry is the ongoing problem of the financial institutions. In your opening remarks you spent a great deal of time speaking on the trust companies matter and on the situation with the caisses populaires and credit unions.

We still have a lot of questions about the difficulties that surround the operations of the Loan and Trust Corporations Act with respect to the Greymac affair, if I can describe it that way for your purposes. In particular, we still have a great number of problems regarding the compensation of the preferred shareholders, which remains one of the largest problems that appears to have remained unaddressed at this time.

12:20 p.m.

The first question I have is one of courtesy. It is the question of whether Mr. McIntyre will be available to go through the financial institutions section of these estimates, so we can ask him some questions concerning the new organization and what he feels will make it work.

Hon. Mr. Elgie: Yes, Mr. McIntyre will be available, as will the rest of the relevant staff in that division. Or maybe I could just answer all these things myself.

Mr. Elston: There are some ministers who prefer to answer most questions without staff on hand.

Hon. Mr. Elgie: Yes, they will be available.

Mr. Elston: We have several questions along those lines which we probably will want to put to Mr. McIntyre directly; so I do not think it is worth while for us to go through those at this time.

Another question we might put at this time, since I have already mentioned the preferred shareholders, is the question of when the minister and Mr. Crosbie, his deputy, will be taking part in discoveries. Perhaps the minister could give us

some idea as to the chronology of his approach to the litigation, without getting into the details. Obviously, I do not want to discuss the action any further than that. I understand that currently there are continuing pieces of litigation concerning Mr. Rosenberg's actions and the preferred shareholders' action. It might be well to see how quickly that whole issue is going to be resolved.

If I am not mistaken, one of the biggest problems is that there seems to be a continuing concern on the part of the preferred shareholders that they have been placed in a position where they were trusting in the immediacy of some action on the part of the government to deal with their particular problems and they have felt betrayed to some extent because the type of discussion and resolution of their problem which they thought initially they would have has not been forthcoming.

It seems to me we ought to address some of those concerns as far as is possible in this forum. I know it is a very fine line the minister may walk in the context of his remarks here and for the formal court hearing situations; but because of the long-standing activity of our colleague Mr. Breithaupt and others in putting the case for the preferred shareholders, we would appreciate having some explanation of where that stands.

As I mentioned, we also have the question of credit unions in front of us. I guess the minister's undertaking is in place in that regard and Mr. Robins will be with us to discuss the credit union situation—

Hon. Mr. Elgie: Yes.

Mr. Elston: –so we can talk particularly about the changes in the internal operations of the ministry's regulatory staff. We will have some questions to raise on that as well.

I want to deal very briefly with the question of the trust companies concerned, Greymac and others. From reviewing some of the materials that were provided to me, I understood there were some undertakings given to one of my colleagues, Mr. Breithaupt, concerning cost and the provision of an analysis of what the costs were and where the money went for the studies, both legal and accounting. It might be interesting for us to have a few moments on those. Mr. Crosbie, who I believe gave some undertakings to provide that information, might be able to fill us in on those; or if the minister has that material in front of him, I will be pleased to receive it from him.

After reviewing to a certain extent Public Accounts from 1981-82 to 1983-84, we also have some pieces of information with respect to an

increase in expenditures for financial institutions in the area of services. I believe we started out in 1981-82 at \$156,520. We rose from there, to get a comparable figure for 1982-83, to \$6,633,985; in 1983-84, it was \$11,901,696. These are figures I have taken from Public Accounts for those years.

Hon. Mr. Elgie: What is the question with respect to those figures?

Mr. Elston: The question would go along with the accounting of the expenditures, where they are going and the question of how they are going to be dealt with in terms of a decrease. This year you are projecting that the amount is going to be roughly \$4 million and something for those same categories. All those amounts are listed under the services component of the financial institutions item. The question basically is one of accounting for the destination of those funds and the reason for the decrease in the estimates in this current fiscal year with respect to the amounts that have already been expended.

We would like to find out exactly how you budgeted for those increases in the actual expenditures. As I understood it, there were not estimates of that size of an expenditure for those years, 1982-83 and 1983-84. You might provide us with some detail of how those were approved.

For instance, in the estimates of the Ministry of the Environment, which were just completed, we were told that an extra \$7 million was approved for allocation to the Ontario Waste Management Corp. by a system known as pressure point budgeting. I understood that to mean that whenever there was a need you could go to cabinet or Management Board of Cabinet, or maybe a combination thereof, and get extra funds. I am wondering whether that is the same sort of process you had in place here. Perhaps you can provide us with some detail of how you were able to get that sort of extra money.

In relation to the amounts of money that were estimated for each of those years that I have talked about and provided you with the actual expenditures, I have to ask a follow-up question, which is a logical one. How can we determine that the estimate this year is accurate when we compare it with the accuracy of the figures you gave us in previous years? What is wanted is an explanation of those particular financial questions, and it will require some analysis of the manner in which you set your estimate for that particular vote.

I will try to stay on the question of trust companies, flips and things such as that. I have a series of questions on when the four-man panel's report will be available on the Cadillac Fairview buildings and the sale strategy.

Hon. Mr. Elgie: What four-man panel?

Mr. Elston: Was there not a group of people studying the sale of that? I understood there was a report to be made. It may be internal.

Hon. Mr. Elgie: Could I just interject while it is fresh?

Mr. Elston: Sure.

Hon. Mr. Elgie: It is reported in the newspaper today—again, if this is interrupting your train of thought, I am happy to wait.

Mr. Elston: No, fine.

Hon. Mr. Elgie: The Canada Deposit Insurance Corp. did set up an advisory group with respect to the total portfolio of properties it has from all across the country. Mr. Rosenberg brought an application before the court in August asking that the court ask the receiver, who is in charge of the Cadillac Fairview properties, to come forth with a marketing plan.

An adjournment for that was requested and a hearing was held yesterday, at which time, to the best of my knowledge, the receiver was directed by the court—I am sorry, the receiver and the liquidator, because Seaway, as I mentioned to you, was liquidated—the receiver and the liquidator were asked by the court to come back with a marketing proposal and to consult with CDIC and others as it prepared such a proposal for consideration of the court.

12:30 p.m.

Mr. Elston: With respect to those assets and the strategy that is being put together at this point, is it fair to say then that it is all in the hands of CDIC Corp. and that really your ministry is in a rather vulnerable position with respect to the disposition of those assets?

Hon. Mr. Elgie: I do not think that can be said, particularly if I understand yesterday's decision very clearly. What I understand happened yesterday is the court has placed the responsibility for coming before the court with a marketing proposal with respect to the Cadillac Fairview properties and that among others the receiver is to consult with it must consult with CDIC as well. The receiver and the liquidator are operating under court direction.

Mr. Elston: Just to continue this briefly—I do not want to go on too far but I think maybe it is worth following up—what then is the role of your ministry in all of this? The liquidator and receiver are going to be involved in it. What is your ministry's situation?

Hon. Mr. Elgie: The registrar, acting in the place of the trust company, having taken possession and control, is in possession and control of Greymac, which is being operated on a management basis by Standard, and is part of a committee managing the so-called soft assets of Crown Trust. Those are assets that are part of the receiver's mandate.

The disposition of those assets has now been placed in the hands of a receiver and liquidator. Any comments on the proposals may be made by any party.

Mr. Elston: The registrar really will be receiving directions from both CDIC and the liquidator, presumably.

Hon. Mr. Elgie: It is my opinion that anyone is free to comment. When the receiver comes forth with his recommendations, anyone with an interest is free to comment on the proposal the liquidator and the receiver come forth with.

Mr. Elston: You do not then feel helpless in the situation? You would feel you would have a major role to play in the decision on those?

Hon. Mr. Elgie: Only in so far as one might comment to the court on the proposal that the liquidator and/or receiver come forth with. The determination of the marketing strategy will be subject to the court's decision, after receiving any comments any parties may have to make on the proposal he comes back with. Is that correct?

Mr. Crosbie: Yes. If I could just say-

Mr. Chairman: Excuse me. Mr. Swart.

Mr. Swart: Mr. Chairman, I just wanted to raise a point of order. I am not trying to be difficult, but I am wondering about the procedure.

Mr. Chairman: We are getting into debate here, yes.

Mr. Swart: There is a little difficulty if we do this. We may want to get in a supplementary. We are getting a supplementary from the Liberal critic. I think if we mark down these things and complete them afterwards—

Hon. Mr. Elgie: My apologies. It was just fresh in my mind, but you are quite right. We should put it off till another time.

Mr. Elston: I certainly do not mean to throw the committee into any disarray. I appreciate the minister's intervening to give us a fresh review of that. Certainly, we will have some follow-up questions with respect to that whole matter.

It has also come to our attention, with respect to the concern of individuals who happen to be residents in those buildings, that there is a fear that perhaps the new legislation, the Residential Complexes Financing Costs Restraint Act, may not apply in the event of a sale of those properties and they may be under some difficulty with respect to large increases in rent. I would like you to address that problem as well.

The concern, obviously, arose originally when those apartments were being flipped that there were going to be a number of rent increases which would deprive people of their residence in those areas. Perhaps it would be a good idea if there could be some comment made with respect to the ultimate result, to the minister's best information, of the rentals and how those rentals might be affected by the dispositions.

I had as well, and it obviously became separated from some of the previous material which I had put to you, another question with respect to Crown Trust preferred shareholders. In addition to the delay that has transpired in meeting some of the requests of the preferred shareholders, perhaps there has not been a good enough effort made to keep the people informed as well as they might have been.

My colleague Mr. Breithaupt has received requests for information, surprisingly enough—and my colleague Mr. Bradley tells me he likewise has receive inquiries—from members on the government party back benches, asking, "What is going on? What do you know about these events?" I think some steps should be taken to address the concern about information being made available. We could be in some difficulty with respect to the litigation which is ongoing. I do want to put my position that, on the review I have done, there has been a difficulty with respect to information being made available to these preferred shareholders.

We reviewed earlier my queries about how many studies are going on. I would like to ask about the current status of the task force the minister set up to study banks, trust companies, insurance companies and investment dealers. Exactly how long can we expect to wait for this study? I ask because, hand in hand with proposed changes in loan and trust corporations and others, perhaps a change in one area may necessitate change in another.

I know you spent some time in your opening statement talking about the one-stop financial shopping issue, which has certainly drawn a lot of interest in my area, particularly from farm mutuals and others who are concerned that they may somehow be very much disadvantaged by the changes in the traditional four pillars.

In one section of your opening remarks, you undertook to say that you were looking to retain that as much as possible. I think there is a real concern that there may be an entry into a specialized field—for instance, insurance—by others who do not necessarily have any expertise in that field. From the remarks that were made in your statement, there was an indication as well that large trust companies such as Royal Trustco and—which is the other that has just amalgamated its real estate section?

Mr. Crosbie: A. E. LePage.

Mr. Elston: A. E. LePage may be setting up a massive structure which will take over a large part of the commercial activity of the province or certainly provide for us a framework within which a lot of the large financial institutions may want to set up their own activities.

I have a bit of a personal concern—again it comes from merely a quick review of the whole area—that we have seen the disappearance, in recent days particularly, of a lot of the trust companies themselves. A good number of amalgamations have occurred over the last four or five years, if I am not mistaken. That may be as a result of changing times, I do not know.

It seems we are looking at a combination of businesses in such a manner that there is a shrinking in the number of independent dealers and we are getting a small number of large entities that are going to be dealing with most of the financial matters in the province. I do not know whether that ought to be a concern from the standpoint from which my first interest is raised, that is from the standpoint that we end up having a small number of very large entities controlling activity.

12:40 p.m.

There is a concern that there is not very widespread comment required from the public with respect to changes in the way things are regulated or overviewed, or how that group of consumers who use that particular institution are protected in the circumstances.

I would hate to see us changing from one system or one order of things where there were a large number of entities to be reviewed by the ministry to a small number of large entities which would be maybe just as impossible to regulate or review and keep on track. All we would be doing is substituting one sort of problem for another.

I bring that up mostly, as I say, as an observation of my own and I have not done the research that is perhaps necessary. My fears may be unfounded, but I would like you to comment briefly on that in your reply, if you could.

There are several other areas I will go to dealing with questions of financial institutions, particularly in the trust company area, but I think perhaps I will move quickly on because I see our time is leaving us. I will move on to a couple of other places where I want to make comments, particularly on the Ontario Securities Commission.

We had some remarks made in the opening statement about the question of the OSC becoming self-funding from fees—sorry, not on that particular one. That is the issue I want to raise with you. You were talking about self-funding of a couple of the insurance programs.

I want to talk about the question of fees in the securities commission. It is my understanding that, prior to 1982 and the Inflation Restraint Act, the Ontario Securities Commission had announced it was considering increasing filing fees in conjunction with issuing a prospectus and offering memoranda and things like that.

It seemed it would be appropriate that those fees would be increased substantially; the costs associated with the preparation of the documents and charged by lawyers, accountants and underwriters were very substantial. The costs were usually built into the cost of the securities and the marketplace made allowances when the securities were purchased. As a general rule, purchasers of securities do not seem to me to be the type of people who would require some kind of a subsidization with respect to the payment of the actual costs that are encountered by the public body.

It seems to me that the small fee, relatively speaking, charged by the OSC does not appear substantial enough to cover the costs and probably there should be some discussion of where we are going with that issue. I have received information that over the years there have been some in the financial or investment communities and in the legal communities who would support a very substantial increase in charges by the OSC. In fact, one of my research personnel had asked staff counsel at the OSC why the proposed fee increase in the summer of 1982 was not pursued.

At first they were told there was significant opposition—I presume there may have been some opposition—after the announcement was made. We were told they responded to those protests by way of letter. When we asked to see those letters, they were not forthcoming. Then the staff person was told that, in fact, no letters had been received by the OSC regarding the fee increases.

There is some concern being expressed to me from my research staff that somehow there was an internal decision just to keep the thing on a low fee basis rather than the OSC having received very much pressure at all. I understand that, evidently after the fact, the fees were increased by five per cent most recently; so there has been a small increase.

I know you spent some time discussing the Ontario Securities Commission and the reviews of new procedures you are looking at for the OSC. I believe you mentioned there were a number of reviews of new procedures you were looking at to keep yourselves on what you described as the cutting edge of that operation.

I have seen indications that the operations of the chairman have been such that it would appear he has been required to be away from his position considerably. Pursuing those extra questions of policy and procedure with respect to the changes that are required to keep the OSC on the cutting edge of programs is obviously occupying his time. However, legal people and others who are looking for approvals or for information to allow them to proceed with applications may have experienced some delays because of the chairman's absences from his office.

With the number of studies that are obviously being done at this time, as indicated in your opening remarks, I can understand that extended periods of time away from the office might be required to review such things. That has been brought to my attention in any event, and I would like you to comment as to the reasonableness of providing some extra help or something to make sure there is not a loss of efficiency during the processes that are going on currently in keeping the OSC updated.

I am going to move now to a couple of general comments. Caveat emptor is an old legal phrase, of course, meaning "Buyer beware." It has been mentioned in the minister's opening remarks, and it has come to my attention a couple of times. I believe the minister used a favourite line of his own from last year's estimates. If I am not mistaken, he requoted it to say that basically the best protection is to have the consumer protect himself. It seems to me that is probably a very reasonable thing to say.

However, in this day and age people are confused to a certain extent as to where they have to be informed and where they are not necessarily informed as well as they might be. There is a confusion out there at almost every turn that there is some piece of legislation or some government body that will take the necessary steps to protect

the consumer or to allow the consumer quick redress. It may be partly a confusion that reigns because of the reports we get through the daily press about certain new initiatives being taken in California or in some other jurisdictions in the United States, Europe or wherever.

In any event, in my constituency office I regularly receive a number of calls about some new body that seems to have sprung up here to protect consumers from something or asking: "Is there not somebody who is going to reimburse me because the fellow who took out my urea formaldehyde foam insulation has absconded? He has picked up the money from the grant program and has not finished the job." Where there is a government involvement in terms of policy, particularly if there is an approval at any stage along the way, there is an automatic connection made by the consumer to the fact that there ought to be some redress on an automatic basis.

12:50 p.m.

I just want to raise the whole point of the informed consumer and the caveat emptor remarks made by the minister from that perspective, because I do not know how you inform the consumer that caveat emptor applies unless it is specifically removed by some piece of legislation. There is confusion and there is obviously an education problem that we have to get across to those consumers in most areas of commercial activity in the province.

Perhaps we could make it easier for most consumers if they had a clear feeling of the philosophy of the ministry. I am not saying the minister should go on the road delivering the philosophical stance of his ministry; I am sure they would all be very interested in it, but I am not sure he could reach enough people.

If you were able to give them a little bit more firmly the feeling, as you have said, that caveat emptor still reigns in the province, that the first thing you do as a consumer is to make all the necessary inquiries yourself before you enter into contracts and agreements and that you automatically assume there is no redress in the public forum, maybe then they would look to your ministry as a second resort and to themselves first. Right now I think the balance has tilted to the point where they almost look first to the government and second to themselves.

Maybe the reason they are doing so is not only press reports; I did mention the press. It also can come from pronouncements on policy considerations or discussions that emanate from the ministry from time to time. As well, of course,

questions are being raised by individual members of the opposition and by parties trying to put positions in front of the public that would indicate a change in policy.

I can well understand that confusion would be fostered in a number of areas. I do not know how we make sure people understand that when discussions are under way it does not necessarily mean there are changes. Maybe it is a concern of mine that cannot be addressed or solved right away, but I have the feeling from the types of inquiries I get that people feel there is a government program for practically every sort of relief they are looking for.

Very few people, by the way, want to proceed in the courts if there is a difficulty from the consumer end of things. Perhaps that is understandable when you look at the types of delays and costs that are possible when you get into litigation and trying to get redress that way.

I want to address just very quickly a few other questions here. The Theatres Act and pornography were mentioned in the opening statement, and a question comes to mind about the Ontario Supreme Court ruling that the censor board did not have the power to determine community standards.

I would like to get into a discussion of the proposals made earlier by our party concerning the drafting of the criteria for community standards through the committee involvement of all parties so we can come up with some kind of community standards in legislation that might provide us with the specificity to comply with the Ontario Supreme Court ruling.

I may be oversimplifying it—I am rushing it a little bit—but I would like to put you on notice that we would like to go through those in a little more detail, and you might want to indicate your response to those sorts of inquiries from us.

I would also like to speak further on the Extra-Provincial Corporations Act. I have some notes in front of me conerning the Extra-Provincial Corporations Act. I remember sitting in this committee room when we did some amendments on this act and discussed the concerns. If I am not mistaken, 100 Wellesley Street East was one of the places involved in that. What could be described as true-blue Tories may be involved in those organizations. I believe it was suggested by somebody that people like Goodman and Goodman, Cadillac Fairview or some others might be taken out of difficulties by this legislation in that it would allow certain applications to proceed when there was no standing to make applications.

I am making these statements from my recollections of some barbs that were shot back and forth at one time or another during my stay here in committee, but I would like to pursue it from the point of view that apparently there were some corporations which were acting in the province last year, or for a couple of years I guess, without getting extraprovincial licences. Under this legislation, they would be allowed to proceed as though nothing wrong had been done.

In that connection, I do have a note in front of me indicating that Deerhurst apparently operated without a licence for more than two years. Perhaps that is the type of situation we could make an inquiry into,p because I understand there were no charges pertaining to what I would guess would be illegal operation in Ontario for those time periods. In fact, it was suggested that perhaps Deerhurst would not have applied for the licence, which it ultimately obtained in September 1984, if the matter had not been pursued by our leader, Mr. Peterson. You may or may not want to comment on that.

I will just finish because I see we are getting close to the end of our time. I would like to address a couple of questions concerning the Residential Tenancy Commission. I understand there had been some indication in previous years that there would be a rent registry. So far, nothing has been allocated for that, and perhaps you might want to comment.

We will also be doing some follow-up work with the Thom commission, about which we had a brief question this morning in the House. Certainly I will be looking forward to carrying on those discussions. In terms of financing, I understand the Thom commission actually falls under the jurisdiction of the Attorney General.

When you are commenting on the number of studies you are going through, I wonder if you might tell us whether you have a specific policy area allocation to deal with the Thom commission, which I see as one of the major studies you are going to have to consider in terms of legislative responses. I would like to know if you have assigned any particular people, or any number of people from your ministry, to deal specifically with those recommendations.

That is a quick run through a big area, and I would just like to say at this point that, as a critic, I appreciate the complexity of this ministry and the types of consideration and the myriad of policy thrusts and concerns which the minister has to go through in keeping some kind of handle on this thing.

It seems to me we have perhaps two or three ministries such as this in the government. I compare your ministry to the Ministry of Natural Resources, for instance; that ministry has some diversities which require considerable gymnastics to make sure one is on track and all that.

I commend the minister for providing some sort of context for the critics, particularly the new ones, to reply, since he gave us a basic overview of the setting in his remarks. I am looking forward to proceeding to an in-depth study of some of these issues and talking about them. My colleague Mr. Bradley will be dealing more specifically with the consumer issues. Perhaps I can intervene as well at particular times when dealing with things like the lotteries branch and the Liquor Control Board of Ontario. So I appreciate your kind attention.

Mr. Chairman: Thank you, Mr. Elston. When we reconvene on Thursday, Mr. Bradley, you will be proceeding with your comments.

The committee adjourned at 1 p.m.

CONTENTS

Friday, October 26, 1984

Opening statements: Mr. Elgie	J-369
Mr. Elston	J-376
Adjournment	J-383

SPEAKERS IN THIS ISSUE

Bradley, J. J. (St. Catharines L)

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Elston, M. J. (Huron-Bruce L)

Kolyn, A.; Chairman (Lakeshore PC)

Renwick, J. A. (Riverdale NDP)

Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister







Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament

Thursday, November 1, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 1, 1984

The committee met at 4:05 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: I see a quorum. The meeting will come to order. We are here to do the estimates of the Ministry of Consumer and Commercial Relations.

Before proceeding, we all know that our good friend and colleague, Mr. Renwick, is in hospital, and we certainly would like Mr. Charlton to convey our best wishes for his speedy recovery, because we miss him here in committee.

I would also like to announce that Mr. Tom Wells, the government House Leader, made a motion in the Legislature on Monday, reducing our estimates by five hours. I wanted to make the members aware of that.

Also, I believe we were going to deal with the minister's request that he be excused tomorrow morning. He had a long-standing prior commitment and if we have agreement of the committee, we would like Mr. Williams to sit in for the minister. Agreed, gentlemen?

Agreed.

Mr. Chairman: Thank you. With that, Mr. Bradley, I think you will be first to let the minister know of your feelings.

Mr. Bradley: Thank you.

Hon. Mr. Elgie: It will be such a friendly discussion.

Mr. Bradley: Yes, certainly.

Thank you very much, Mr. Chairman, for this opportunity of splitting the opening statement for the official opposition and I presume for the third party as well. As Mr. Elston indicated to the committee, because of the breadth of the ministry—I always wonder how a minister can ever handle all aspects of it, but of course, with his competent and experienced staff that certainly can happen—

Hon. Mr. Elgie: Did everybody hear that?

Mr. Bradley: —we have it divided among several people. I have responsibility more for the consumer end of things, Mr. Elston for the commercial, because he is a lawyer, and Mr. Epp, who is our Municipal Affairs and Housing

critic, has assumed responsibility for the rent review aspect of the ministry over the last few years.

Early in my remarks, I mentioned the breadth of the ministry. It seems to be a catch-all of a number of items, some of them probably considered in the public mind more important than others. I think we have always talked about the different aspects, but certainly the pressure vessels do not seem to take too much time here. However, they are important and the Upholstered and Stuffed Articles Act has not really had the attention in this committee over the years that it may merit.

There are several controversial aspects to it. I want to indicate to the committee that, first of all, the results of the deliberations of the Thom commission will be dealt with rather extensively by the Liberal critic in that area.

Suffice it to say that, from our point of view, we felt it took a long time to come to the conclusions that were eventually reached. We would have liked to see a more speedy report, and would have been pleased to implement certain parts of it some time ago. In my extensive preparations for this, I was looking back at some notes 10 minutes ago, and I found a statement I made in October 1981, I think it was—Mr. Walker was the minister then—and at that time I mentioned the need for a rent registry.

I think there is a fair consensus building for that. There seems to be less resistance to it on the part of landlords, although I understand there is still considerable opposition. I think it would be extremely useful and I would hope that we see rather rapid action on the part of the minister on the recommendations of the Thom commission. I also understand the need for a legislative committee to deal pretty quickly with all aspects of the report, but nevertheless to deal with it as legislators.

4:10 p.m.

I would like to say again that we had been hopeful of seeing some action on rent control sooner than this. Each one of us, as constituency representatives as well as critics in specific areas, has had brought to our attention problems with the rent control system. There have been landlords who told us that we should not have controls at all. There are a number of tenants and

tenant organizations who say they are not sufficiently protective. We have to wrestle with that.

Even among tenants in Ontario, I detect some sympathy with finding ways to deal with those of their number who are not the best tenants, let us put it that way. I know there are many cases where landlords have been unfair. We in the opposition, and I think many on the government side, are probably very sympathetic to those people who have been dealt with in this fashion.

On the other hand, I think there are tenants and landlords who have expressed some concern, for instance, about either damage done by tenants or lack of payment when there is a legitimate pass-through or decision on the part of a rent review board—for example, the Residential Tenancy Commission—that adversely affects all in the building, including the tenants. I think there is sympathy for some movement to address that, without penalizing those who are good tenants. I recognize that that is not always as easy as one might think.

By and large the complaints I have received—and that I am sure most members have received—are from tenants who feel the system has not worked as well as it might. I have not attended many rent review hearings. I consider it a process that is independent, or I like to think it is independent from the political process so I do not like interfering. However, once in a while I drop in just to see how they are operating.

I remember attending what I suppose was an appeal in St. Catharines. One case was that of 20 Tremont Drive. It was one of those flips taking place; I suspect it was similar to what happened in the big deal in Toronto. The tenants in this case were not people with a great deal of money but they were forced to hire a lawyer and do an awful lot of research to verify something that the landlord could have proved more easily.

Liechtenstein was involved, as it is so often in these cases, and a transfer of ownership. One could have been suspicious that it was not legitimate, although I guess the commission felt it could not be proved that the landlord was entirely wrong.

The only point I am making to the minister and the ministry officials is that the onus was on the tenants to prove their side, and the landlord really did not have to do a heck of a lot. There were some adjustments, but it went through, and it shook the confidence of the people in that case in the whole rent review process in Ontario. I only pick it out as one example because, as I said, Mr. Epp will be in to deal with it.

When I examine this ministry, it seems to me that it, or this government, has or has had a lot of task forces dealing with many things. I know it is sometimes good to look carefully before one moves ahead legislatively, but I also know it is an excuse for not moving quickly, and I would like to see some of these task forces report more speedily.

I might refer to the task force on wine as an instance. I understand from my conversations with the minister it will be making some recommendations in the relatively near future and there have been suggestions brought forward by various people. I think that would be helpful any time there is a task force.

We want to deal at some length as well with the policy regarding the Liquor Licence Board of Ontario and the Liquor Control Board of Ontario when we get into our detailed votes. That is the style I hope to adopt; that is, rather than zeroing in on specific cases in my initial remarks, I want to be able to do so when we get to the actual vote. It is to be hoped the allocation of time will be such that it will allow for that.

Over the years, another matter of great controversy in Ontario has been the government's liquor policy. Once again I recognize that here we are dealing with changing moods and views on booze and its availability, in particular with regard to hours and conditions. I remember being in the committee some time ago when we talked about beer in the ball park, and I believe I said then that as an experiment you might try light beer, in cups, so you would not have people throwing bottles.

I think we realized that at many sports events people were somehow bringing in alcohol anyway. I think the minister has noted that, with some outstanding exceptions, the experiment has worked reasonably well. All of us have been disgusted with some of the situations that have arisen, in which people have become overly boisterous to the point of seriously annoying others or interfering with the play, or something of that nature.

Fortunately, by and large these have been isolated incidents and in many cases could not be attributed to the fact that your government has permitted the sale of beer at football and baseball games, and, I believe, at soccer games as well now.

Hon. Mr. Elgie: They were always included. At any professional sport.

Mr. Williams: To what do you attribute the rowdyism?

Mr. Bradley: When it has happened, it has been hard to say. I think what happened before was they used to bring in bottles, and you can attribute it to that. I am not denying that it is attributable to alcohol; maybe some of them still smuggle it into the stadium.

From time to time there have been some rowdy incidents and I think both this minister and any other responsible—I think it is mostly this minister; the city of Toronto may have had something to say about it as well—will have said, "Let us look at how we can improve the circumstances in the CNE stadium," if I can use that as an example.

We still want sports to be a family entertainment, and most of the times I have been at Blue Jays games that has been the case. I do not know if it is because it is the wintertime or what it is, but for some reason the situation seems to be less controllable at the football games we have seen. The Grey Cup is notorious for that, but I am talking about regular season games where there has been some problem as well.

In fairness to the minister, I think attempts have been made to fix that by having more outlets, for instance, for washrooms, and by cutting off sales at certain periods, and limiting them at others. Some people think those measures are overly restrictive. On occasion I guess they can be an annoyance, but I think when you look at it in total perspective they certainly militate in favour of a more reasonable use of alcoholic beverages.

We can still have a situation in which we are modern enough, if you want to call it that—and in pace with the American stadiums—to have it without having major problems.

One thing I would not recommend is nickel night for beer. They had it in Cleveland one night and they stopped the game in the ninth inning when the chairs were coming out of the upper deck. Before there was baseball in Toronto, I used to be a Cleveland Indians fan. I went to Cleveland all the time. I am not a great connoisseur of beer but I can tell you that Duke beer is about the worst there is. Nobody sells it here; I do not think they donate to anyone, so it is no great problem.

I will tell you, they did not have problems there over the years, until the night they had nickel night for beer and then the crowd spent more time consuming alcohol than anything else. I do not anticipate the minister will be making any recommendations in that direction.

I am in a border area. I do not know if you notice it so much here in Toronto, but the

member for Hamilton Mountain (Mr. Charlton) will recall in his wayward youth going over to a place called Lakewood in Youngstown, New York. At that time a lot of Canadians were on the American side, but I suppose his excuse then was the difference in the drinking age. I, of course, never went over until I was at least 21.

Mr. Chairman: You did not go to the Moonglow in Buffalo?

Mr. Bradley: Never to any places like that. **Hon. Mr. Elgie:** He went to watch others drink.

Mr. Charlton: You were 13 when I saw you there.

Mr. Bradley: I cannot believe that would be the case.

Hon. Mr. Elgie: He went to watch Charlton drink.

4:20 p.m.

Mr. Bradley: The point I am making is that at one time it was the drinking age which drew people over to the United States. I think what is happening now for those of us who are in border areas—and it would affect people as far away as Hamilton, in the Ottawa area or all along the Quebec border, in Windsor and Sault Ste. Marie. I do not know if you can get over very easily from the Rainy River area into the United States.

I am sure there are a lot of people smuggling beer and liquor across the border who do not get caught. Some do and it gets dumped over the side or something. One of the reasons is that the price of alcoholic beverages is so much higher in Canada than in the United States, particularly in New York state, with which I am more familiar.

One can say you tax sin; you tax booze. It is not good for you, therefore, people will accept it.

When I was making representations before the last budget—the Treasurer (Mr. Grossman) invited the opposition and others to make some a while ago—one of the things I said, interestingly enough, was if he had said three or four years ago, "Will a member of the House come into a committee and defend maintaining the present price of booze and not putting up a tax on it?" it is unlikely he would have had too many members doing it. There is always the perception the public will sustain it and some people even think it is a great idea.

What has happened is that taxation has been hurting our tourism and hospitality industry more than anything else, in the border areas particularly. Some in Toronto would be able to comment on what effect it has here.

I have people who own restaurants and taverns and so on who say, "We just cannot compete with Niagara Falls, New York, or Lewiston or Youngstown or Buffalo, because we have to charge so much more for our alcoholic beverages." People are not usually there to get tanked. They are not sitting there drinking all night, but perhaps they want to have a few beverages with their meal. The cost is substantially higher in this province for wine and liquor and beer. These owners are saying, "Look, we are having a tough time competing."

Price is one thing, and I am relating it more to the hospitality industry than I am to home consumption when I say that, although a lot of people are annoyed with the price being that high generally.

The second thing I am talking about is the hours, again in border areas. I do not believe in staying open all night. I do not believe in wide-open, anytime hours. There are needs for restrictions.

I am glad to see that our provincial and federal governments are both involved in discouraging people from drinking and driving. I think that is good, but on a Friday or a Saturday night, a number of restaurant and tavern owners and others who serve alcoholic beverages lose a lot of customers to the United States.

They stay open till three o'clock in New York state, for instance. I am not advocating that hour, though it may be that on weekends it would be appropriate, even if only in the border areas. I know it is tough for the minister to start setting different laws for different places, although it has been done experimentally, I think, in tourist areas.

It might be worth while to look at the possibility of extending the hours until two o'clock on Friday and Saturday nights. I do not think it is a big problem the rest of the week.

Mr. Chairman: You are suggesting optional hours for those who want them?

Mr. Bradley: Yes. The chairman is quite right. There may be circumstances where people do not want them and that is fine, but those hours are there. A lot of people will go out to a show or somewhere and then they want to go to a place where they can stay for a couple of hours. Very often that one o'clock time does not permit that on a Friday or Saturday.

That may not be a good idea. You may have studies which show that, but I think it is worth considering.

Your polls, of which you take so many, probably show some changes in people's atti-

tudes over the years towards the availability of liquor. It is strange; it is the attitude here in North America more than anything else. The legislative intern who is working for me at present, Ron Hoffman–I said I would get his name in Hansard–pointed out to me today that–

Hon. Mr. Elgie: First day here. It takes the rest of us a couple of months.

Mr. Chairman: One "f" or two?
Mr. Bradley: H-o-f-f-m-a-n.
Mr. Chairman: Thank you.

Mr. Bradley: If you travel in Europe and some other countries—and those of you who are ministers are always over there, I think—you find the attitude towards drinking is entirely different, particularly in regard to drinking and driving in some countries. It is said that while there may be, impaired drinking, it is never in a person's mind to drink and drive. It is just not done.

Mind you, in some cases their laws are so strict it certainly discourages such actions. If I were going to lose my licence for life, I would be mighty careful not to get anywhere near what we consider to be the legal limit.

Again, it is hard for tavern and hotel owners and so on, and I will have to get some comments from the minister on what he thinks their responsibility is with respect to serving customers. I know it is tough to draw the line sometimes about what can be done in that regard. Some even have suggested that there be machines at these places so people can determine whether they are capable of driving, and this might be at the initiative of the person involved. Some people seem to think the more they drink, the better they drive. We all recognize that is not true

We are talking about a sensible policy of availability. At the same time, I know that all of us and the government are concerned and we discourage people from consuming alcohol to such an extent they are incapable of driving a car or are causing a danger or nuisance to others.

It is a fine line; I appreciate that. I do not think it is easy for the minister to define, but I would be interested in some of his comments and I will get back to them a bit later.

With respect to the total ministry—and I am not saying this minister, because he is probably as interventionist as we could find on that side. At least he left that impression in his former ministry—

Hon. Mr. Elgie: Me? Never.

Mr. Bradley: However, I get the impression this government is not as serious about the

consumer end of the Ministry of Consumer and Commercial Relations as it might be. This minister probably is—

Mr. Swart: I am not too sure of that either.

Hon. Mr. Elgie: Bite your tongue.

Mr. Bradley: –but he is probably restrained somewhat by the allocation of funds. I think we should have a real champion of consumers, armed with sufficient funds through his estimates and with sufficient clout and say-so from his cabinet and colleagues.

You will know, for instance, that I directed a question to the minister concerning protection for car owners with respect to repairs. This is one area where the minister could be aggressive. I see that the Sault Ste Marie Star did not agree with me. It thought it would put too much onus on owners.

All of us know the majority of people in that business are trying to earn an honest dollar, and do. They have some tough decisions, too, and customers who can sometimes be difficult. We cannot suggest that the customer is always right. We try to think so most of the time, but there are times when he is unreasonable.

My view is based on the fact that I get a heck of a lot of calls and letters from people who are dissatisfied with automotive repairs. Because they do not know that much about it, it is difficult for them to get any kind of satisfactory answer.

I am the last one to ask. I am a mechanical moron so I cannot tell whether someone has done the thing right or not. I would be a prime person for plucking if they wanted to soak me a lot.

I remember getting a light put on the side of my car. I thought it would cost about \$5 and when I got the bill it was \$95 or something like that, for a light bulb change.

Mr. Chairman: What did you drive? An Oldsmobile, was it not?

Mr. Bradley: That was the reason. That is the penalty one pays. I was flabbergasted by that kind of thing.

At some time you might do an investigation of the price of car parts in this province. If you wanted to assemble a car from parts, it would cost you about three times what it costs to buy the whole unit. I know you could say that about a lot of things but, my gosh, the price of car parts is extremely high.

4:30 p.m.

People are very concerned about overcharging for repair work and having things done that should not be done. I like the ghost car program. I do not think that is a fishing trip. Some people say, "You are harrassing business." The majority of people in the business, I re-emphasize, are legitimate, honest people. They are not going to object to that. You may find they may change some minor things; you are not going to worry too much about them. What you are going to catch with the program are the crooks; the people—to use the modern vernacular, which I do not employ—who are genuinely "ripping off" the customer. I would like to see more funds allocated within your ministry for the ghost car program.

North York has made suggestions that some think are good and that others do not. I happen to lean favourably towards them, but the minister might tell me why he thinks some of those might not work.

One thing I believe we could all agree on is that an expanded ghost car program would be exceedingly good in catching the crooks and in keeping honest the ones who might think of straying over the line.

I like the idea that you send out a press release to let everybody know that a prosecution has taken place. When it gets in the newspaper it is pretty embarrassing for the company if, when you have caught certain people, you have said it was So-and-So Muffler Co. or So-and-so Tire, or something like that, whatever the company happens to be. There is nothing more embarrassing when that is published. The firm's reputation is being questioned.

So I like the ghost car program. I want to see that expanded considerably throughout the province and on a continuing basis throughout the year to try to keep those people honest.

I also notice that there have been suggestions—and I think I made this suggestion to the minister. Actually, it did not originate with me. It came out of the North York situation in which they placed new restrictions on Metro licences, including no five o'clock surprises; all repairs must be approved by the car owner in advance.

I want to tell the minister I understand how that can be a problem. In midstream, the mechanic can get into a situation where something is wrong that he or she was unable to spot originally. It is better the surprise should mean you do not have a car because it could not be finished, rather than not be notified. Usually the garage will give you a call and that is sufficient; you can make a decision then.

All replaced parts must be returned to the car's owner. I would certainly say that is a good idea if the owner wants them. Some owners may not, but that requirement should be there for those

who do. Some people suspect the parts are never taken out of the car and some may want to use them again.

I would be interested, though, to hear whether the minister thinks that would increase costs, because repair people would say, "I cannot junk these things and get the money that way, so I will just soak people more for the original business." The minister might have some studies which show that would be the case. It seems to be a good idea on the surface.

With regard to warranties for used cars and the car's history of repairs being provided whenever it is commercially sold, the minister pointed out appropriately in his answer to me in the House that you cannot do that in private transactions; you just cannot practically do it. I understand and accept that.

To those who are in the business, it might well be reasonable to provide a history of the car and some kind of warranty. It is obviously not going to be the same kind you give to a new car, but I think people want to know when they might have bought a lemon that becomes too expensive to maintain as soon as they get it.

They suggest the expanded ghost car program operates year-round.

With regard to garages being required to post all wage rates and notices as to whether mechanics or others are paid on commission, it is valuable to know just how they pay the mechanics. One of the things I have often wondered is how they charge the mechanic's wages when he or she is working on two cars at once, at dealerships, or at places other than dealerships that do repairs. Is that \$32 an hour, or whatever it is, being charged against both cars? It would be interesting to know whether they are allowed to do that.

The other point comes up, of course, as soon as you talk about insurance. You have a problem, as well as everybody else, because it is in public attitude. The business person at the other end may ask, "Who is paying for this, you or the insurance company?" That in itself is a question it annoys me to hear. You know if you say it is you it is going to be one price and another if it is an insurance company. Then we wonder why insurance rates are so high.

Insurance rates are high for a number of reasons, but one is because some people charge more, obviously, when there is an insurance company paying than they would otherwise. Some insurance companies have tried to overcome that in certain ways and there have been other initiatives with respect to the problem. The

minister may have some suggestions. It clearly contributes, at least, to higher rates than we would like to see for automotive insurance. I just mention that as a consumer area that is of interest to me.

With respect to wine: As the minister knows, the provincial constituency of St. Catharines has probably very few vineyards—there would be a strip along the Welland Canal at most, so we are not really talking about extensive growth—but it is surrounded by them.

Mr. Swart: There are quite a few on the west side.

Mr. Bradley: That is not my riding.

Mr. Chairman: That is in the other riding.

Mr. Bradley: I would point out that even though I am an urban representative with few grape growers in my riding, I still have great concern for the grape growers of this province who surround my constituency.

Mr. Swart: You have some consumers of wine in your riding?

Mr. Bradley: There are a lot of them there. What I am saying to the minister is that we are in trouble. I am not telling him something he does not know; we are in considerable trouble in the Niagara Peninsula. There is a lot of unemployment anyway, but my concern at this point is the wine industry.

There has been a downturn in the wine industry. Grape growers have felt the crunch, so to speak. Ottawa bails them out once in a while. People come in and say, "We will buy your grapes," and they store them for a year, or something. That is a temporary thing.

I also recognize that the General Agreement on Tariffs and Trade is something one has to skate around very carefully. It can also be used as an excuse, but it has to be dealt with cautiously. I accept that, but one of the things you could do is what I advocated to you in the House: you could reduce the markup on wines.

A St. Catharines Standard story on October 18, 1984, referred to a "secret" proposal. I do not know how true that is, and who am I to suggest that the headline writer for the Standard would be anything other than correct? I have always assumed they are. It mentions that—

Mr. Williams: That is what McMurtry thought, I suppose.

Mr. Bradley: Don Ziraldo, who is a very respected person in wine-by the way, he is president of Inniskillin Wines in Niagara-on-the-Lake, which has developed some excellent wines, as have a lot of Canadian wineries. That is

a really positive move for us, that we have a quality product now that is competing only because it is so. Certainly the price is a problem, but we have really come a long way.

Sitting at a dinner on Tuesday night I was listening to a person who came from Chile. He said they had the best wines in the world there, but he also said: "When I first came to Canada and settled in the Niagara Peninsula, your wines were terrible. Now, 15 years later, they are excellent." So we have the quality that has been developed and Inniskillin is one of those that did it.

"Adoption of the new structure would render future bailouts of the Ontario wine industry redundant," according to Don Ziraldo. He wants a structure which would enable Ontario wines to regain the 50 per cent share of the home market they enjoyed up to a year ago. The article says, "Although the proposal has been under review for at least four months, nothing has come of it and grape growers and wine makers are becoming restless.

""We are getting to the point where we are very pessimistic and frustrated by the whole thing,' Ziraldo said."

4:40 p.m.

I do not want to go through the whole article, but will just pick out a few things for you. According to a grower, for instance—this is the proposal—if the Liquor Control Board of Canada would reduce its markup on the price of local wines to one per cent from 58 per cent, and reduce imported wine markup to 66 per cent from 123 per cent, there would be a flat rate distribution fee of \$12 a case, which would be imposed on top of the markup, to allow the LCBO to recover its costs and make a reasonable profit.

People will ask, "Why would someone representing a Niagara Peninsula riding ever ask that they reduce the markup on foreign wines?" The minister understands that under the General Agreement on Tariffs and Trade you have to do that. You cannot treat one or the other. We have already got into trouble with the Americans over a threat from them to throw tariffs up on our whisky going across the border, so we have to tread carefully.

What this would do is reduce the price of all wines and we in the Niagara Peninsula believe it would improve our sales very effectively.

This article goes on to say: "Under the proposed structure, premium Ontario and imported wines would come down in price, cheaper

Ontario wines would remain the same, while cheaper imported wines would rise slightly.

"The structure would also be compatible with the General Agreement on Tariffs and Trade regulations which do not allow a spread of more than 65 per cent between imported and locally produced wine markups," according to this grower.

"The unidentified grower said confidential meetings have been held with representatives of the US wine industry and they have no objections to the proposed price structure."

One of the reasons that is confidential, of course, is that it is treading on federal ground, according to many. Certainly when Quebec does it there is an awful ruckus raised, as there should be, and we may try doing it here.

I ask the minister to address the problem. There are other possible solutions. My friend Don Boudria, now the federal member for Glengarry-Prescott-Russell and former Consumer and Commercial Relations critic, put forward a bill or a resolution in the House which would have called for the selling of Canadian wines in grocery stores in Ontario. The minister can correct me if I am wrong.

They have this in Quebec now and apparently sales have increased significantly there. I think British Columbia is looking at it. A lot of people in our area, the small, independent store owners particularly, would look forward to the opportunity. It would give them a little break and, at the same time, it would give our wine industry a boost.

I know a few of the upper echelon people in the wine industry, some of whom are certainly no enemies of the present administration at Queen's Park, did not express great enthusiasm. Others in that industry did, however, and I think that is probably reasonable.

The real problem with all booze, in terms of price, is the tax we add, and the tax on the tax. You have the federal excise tax, which they keep increasing and for which everybody dumps on them, although they will not do it as much now because it is a Conservative government—they will still raise it but they will not be dumped on as much—but now we have your ad valorem tax on top of that. We just keep raising the price and making our products uncompetitive. I hope the minister will look at that.

There are regular increases in those federal taxes, there is the depreciation of European currencies and an estimated surplus of 900 billion gallons of European wine, which, of course, is said to be dumped on the Canadian market at

prices below the cost of production. This has permitted Europeans to sell their wine in Ontario at competitive prices.

I heard the member for Carleton East (Mr. MacQuarrie) mentioning French wines. Their sale, for example, has increased in Canada by 23 per cent while domestic wines have declined by 14 per cent. In fact, domestic wines have seen their share of the Ontario market slip to 42 per cent from about 52 per cent last year.

The Financial Post said on September 15, 1984, "Most of the slide has taken place in the big Ontario market...and can be attributed largely to ineffective provincial protection measures for domestic wineries." Even the Financial Post thinks that this government is not doing a good job, in one specific area at least.

Hon. Mr. Elgie: That is not what the Star said though, is it?

Mr. Bradley: I select well—as does the minister, I suppose.

My leader raised with the Minister of Transportation and Communications (Mr. Snow) the Bell Canada requests over the years. The member for Welland-Thorold (Mr. Swart) has done so as well.

I know you are not the minister specifically responsible—it comes under MTC—but here I go back to the fact that you are the consumer minister. It is a vested interest but there are a lot of people who are fearful of this.

It is said by Bell Canada that, if the Canadian Radio-television and Telecommunications Commission accepts their request to endorse rate rebalancing, 250,000 Ontario residents may not be able to afford telephone service. That is according to Brian Hewat, who is Bell's executive vice-president of marketing.

Bell is arguing that long-distance competition, both in Canada from CNCP and from companies offering subscriber access to deregulated United States long-distance services at savings of up to 60 per cent, necessitates rate rebalancing. Such a move would end Bell's \$1.2-billion subsidy of local rates in Ontario, Quebec and parts of the Northwest Territories. It would seriously affect the lower income groups.

On October 23 Mr. Snow said that his ministry will be represented at CRTC hearings currently under way, but he did not say what they were going to do there. I would like to see the Minister of Consumer and Commercial Relations of Ontario appear at those hearings as the champion of the consumer, arguing against any proposal which would increase—

Mr. Swart: I would sooner see a champion of the consumer.

Mr. Bradley: You throw me off with those comments, Mel, however valid they might be.

Mr. Chairman: I think Mel would rather go.

Mr. Bradley: I would like to see the Minister of Consumer and Commercial Relations of Ontario appear at the hearing to represent the people who would be most adversely affected by that, the low-income people.

It would be a good time for you to get in a crack about not wanting people to pay on the basis of the number of telephone calls they make, which would be, I think, another retrogressive step in that it would hurt a lot of people who really cannot afford it. It is a basic necessity in Canada; we do not consider it a luxury, although our service is thought to be very good if you compare it to that in other places.

I remember talking to someone who lived in France for a couple of years. He told some phenomenal stories about how, if you advertise an apartment and say it has a phone, that was a real bonus. You had to wait a long time for a phone. He said something about it being faster to phone North America and get North America to phone Paris than it was to phone in from a suburb. I could not quite figure out why, but apparently they are not experts on phones.

I am not complaining about the level of service we get in this country. I am claiming that the cost can be too high and I think the consumer minister in Ontario should be there whenever somebody is trying to hoist the price, because often they are aiming at a rate much higher than they probably need or hope to get. I know the minister will want to take that suggestion and move forward with it.

My friend, the member for Huron-Bruce (Mr. Elston), dealt with the commercial end of things. I came into the ministry estimates last year, although not as the critic, to pay a compliment to this minister for, at long last, after a battle, providing compensation to the Re-Mor Investment Management Corp. victims.

There was still a problem—and I do not know whether you have resolved it yet; I have not heard from my people for a while on this—about lawyers' fees. The lawyers were retaining a certain portion and they said they would kick it back to the people who were getting the money in the first place, the victims, when they were paid by the Ontario government. I wonder whether they have been.

That was a sorry affair-Re-Mor, Astra Trust Co., Co-operative Health Services of Ontario and Argosy-which has never been solved. My

friend, the member for Carleton East, remembers the days we went through on that one. I think my friend, the member for Oriole (Mr. Williams), was on the committee at that time, and we had some awful fights with this government. We finally extracted justice for the people—I must say with the assistance of the Ombudsman and a positive response from the minister.

After three ministers, we finally had one who was perhaps just at the right place at the right time, but I suspect he was also a person who believes in justice and I was pleased to see that he finally was able to solve that problem. My friend the member for Welland-Thorold and I well recall the battles that were fought over that for years.

Just when we thought it was all fine, we had the famous case of Crown Trust, Seaway Trust and Greymac.

Mr. MacQuarrie: Do not pat yourself on the back too hard.

Mr. Bradley: Certainly we exposed that and got some action on the part of the government. Once again the opposition was carrying the ball on this.

4:50 p.m.

Mr. Cureatz: When are you announcing your campaign?

Mr. Bradley: I am just telling you.

Mr. Cureatz: You are just telling us the facts.

Mr. Bradley: Just the facts, as they always said. Remember that fellow Friday used to say that in Dragnet.

Mr. Cureatz: This is estimates, not fantasyland.

Interjections.

Mr. Chairman: Gentlemen, Mr. Bradley has the floor

Mr. Bradley: I will ask the minister later for his comments on Argosy and what he is going to do for the Crown Trust people, because I have a lot of people still contacting me about Crown Trust. These are the preferred shareholders in Crown Trust who are still experiencing problems.

I know the Liberal opposition has continued to press the government on behalf of the 900 people who were—as our former Justice critic, our friend Jim Breithaupt, pointed out in an open letter to you in, I believe, September—stripped of their \$19 million in Crown Trust and ignored or forgotten in the great rush to seize the three trust companies. In his letter, Mr. Breithaupt referred to Mr. C. Wallace King, who has represented the

shareholders in dealings with the minister and has appeared a number of times before a standing committee of this Legislature seeking redress or restitution.

"In committee on two occasions, the minister, his deputy and the registrar very clearly extended the promise to Mr. King to assist the preferred shareholders and to work with their representative in the Canada Deposit Insurance Corp. to find a business solution that would restore at least some of the loss sustained by this group of entirely innocent investors."

Mr. Breithaupt continued: "Mr. King had previously advanced a number of business solutions, which you found unsatisfactory without giving reasons, which you refused to forward to the CDIC." I understand, by the way, that CDIC is not in great shape either.

"A three-way meeting would permit the genuine problems of any proposed business solution be thrashed out to the satisfaction of all parties. The alternatives available to the preferred shareholders are quite grim. They must either wait until all the Crown Trust assets are disposed of and final accounts taken, or they must pursue their cause in lengthy litigation. In either event, there is no probability of resolution within the next five, and more likely, 10 years.

"Notwithstanding your promise, it is clear that no meeting with Mr. King and CDIC shall take place. The meeting scheduled for May 18, 1984, was, as you previously advised, cancelled at the last moment. I cannot accept the reasons offered by you for cancelling this meeting."

I hope this meeting has not taken place since this letter to you.

"Shortly after you called off the scheduled meeting, Mr. King took the opportunity to speak to the chairman of the board of CDIC to make it clear that CDIC had never entertained the idea of negotiating any business solution or other arrangements whatsoever for the benefit of the Crown preferred shareholders. The chairman pointed out most emphatically that the CDIC has effective control of the remaining soft assets of Crown Trust, not the provincial registrar. Such control shall be exercised for the benefit of the banks and member institutions of CDIC. The interests of the government of Ontario and the Crown Trust preferred shareholders are immaterial to the CDIC. The position of CDIC has long been well known to your ministry, notwithstanding any dispute between the province and CDIC.

Then it goes on to say: "From the very beginning you have badly used this group of

investors." I like that. "In no respect are they to be faulted. They cannot possibly be branded greedy speculators, given the undisputed conservative nature of investing at the time in low yield Crown Trust preferred shares. Their loss is entirely and solely the result of your government's actions, consequent on the failure of your regulatory system. You have expropriated, though some would say stolen, property from these shareholders without reason, explanation or due process."

Hon. Mr. Elgie: All that activity you brought about; you just took credit for it. Holy mackerel.

Mr. Bradley: No, this is what you are doing. "You deny information and assistance to these people, using as an excuse that they are involving you in litigation, which is the avenue of redress left open to them."

Hon. Mr. Elgie: But you just took credit for it.

Mr. Bradley: "After 18 months of empty promises, you must now come to terms with the damage you have done. The preferred shareholders must be compensated and the wrong done to them by this government must be set right. I urge you to assume responsibility now for preparing a plan of compensation for these people and restoring to them what is rightfully theirs."

Mr. Breithaupt has certainly fought that battle, others have fought the battle, and I hope you do something for those people who have contacted me.

Hon. Mr. Elgie: Breithaupt, Breithaupt, where is he now?

Mr. Bradley: He certainly will be advising you on certain things and perhaps he will be making some good changes.

Mr. Chairman: A fine appointment, if I do say so myself.

Mr. Bradley: I agree; a fine appointment, one of the few fine appointments you people have made over the years. For him, it is a fine appointment, I must say that.

Mr. Swart: It is a good thing for the province also.

Mr. Bradley: This is something I remember asking in 1981. A lot of your consumer protection legislation seems to be scattered around and we are calling for one big consumer protection act that has everything in it. I would like to know how much progress you have made in bringing together one big comprehensive

consumer protection act that has legislation which is intelligible and readable.

I am not a lawyer and I have a difficult time getting through some of the legislation that is brought forward. I think that is one of the reasons people do not know—you have just put out some kind of pamphlet. I have not read it, but my constituency office secretary said the latest pamphlet you put out was pretty good in letting people know about consumer services. Whoever was responsible for that did a good job.

You also have the cable television show, which is pretty good stuff. I could use it when I am hard up for a program some time. Instead of having Mel Swart on my program, I could probably use your film. Mel is as good in terms of consumer protection as your film, and that is reasonable.

There is another thing that was once suggested. I do not know whether it is practical now. That was a select committee to look into all our liquor laws, entertainment and things of that nature. I mean a short-term one, not a long-term one that goes to Australia or some place such as that.

Mr. Cureatz: You should go to Italy for that.

Mr. Bradley: You suggest Italy for that?

Mr. Chairman: A world tour.

Mr. Bradley: I am just suggesting that we should hear from the people. Maybe the minister has a better vehicle. Maybe his polls are better and his ministry officials or task forces work, but it might be interesting to hear representations from people in the industry. They could come to a committee of the Legislature and say, "This is what we think should be done, members of the Legislature."

I know they can meet with us independently, but I think that would be useful. Maybe it could even be this committee sitting as a select committee at some time hearing those kinds of representations from people in the industry, from the temperance organizations and from anyone who wants to make some representations.

I am sorry to hop back to liquor legislation, but I wanted to make Mr. Blair's visit to the committee room worth while today and in the future.

What else can I go on to? Polls—you people take polls constantly. By "you people" I mean the government. I am not necessarily saying your ministry.

Is it now your policy to supply the results of these polls at the same time as you receive them, instead of having to extract them from the government six months or a year later, if ever, when polls are taken on anything?

Hon. Mr. Elgie: Any poll we have had done has been released to you within a reasonably short time.

Mr. Bradley: What is a reasonable amount of time?

Hon. Mr. Elgie: What is the longest?

Mr. Crosbie: Two or three months after.

Mr. Bradley: That is good. Your ministry is an exception then.

Hon. Mr. Elgie: They always get tabled.

Mr. Bradley: I accept that as being a good example for other ministries to follow. Any polls taken with government money should be available to all members of the Legislature and ultimately to the public. I think they can be useful in certain circumstances. I think your government polls too much for political reasons, but in certain circumstances it can be helpful to some extent.

Hon. Mr. Elgie: The polling we do is on specific matters related to the ministry.

Mr. Bradley: I have talked about wine in stores. Here I am back on liquor again. The ratio of food to liquor—

Hon. Mr. Elgie: That is your favourite topic. Mr. Williams: He must be thirsty.

5 p.m.

Mr. Bradley: I understand a lot of people say that, if you believe anyone meets that requirement, you believe in Santa Claus. I understand a lot of people have a hard time meeting that requirement and that it is simply not met on many occasions. I am not advocating you go out and try to make them meet it because it is probably hard to meet that requirement.

I would be interested in your comments on this. Quite frankly, I cannot offer very many remarks, other than to say I would be interested in your comments.

Let us have a look at birth certificates. Here I am jumping from one thing to another, but birth certificates are a tough one. I had a constituent whose name is Robert Halfyard.

Mr. Williams: How do you spell that one?

Mr. Bradley: Just as it sounds, Robert Halfyard. This is important for this reason: remember the fellow who fled to the United States; it was Dallas or Houston. He assumed the identity of Robert Halfyard in St. Catharines. He had a birth certificate, a passport and everything saying "Robert Halfyard." How he got it, I do not

know, because some people have a difficult time getting them.

Mr. Swart: There was a lawyer down there at one time who would do that kind of thing.

Mr. Bradley: That is true—I think that is true. Anyway, I see his wife is suing for divorce. I do not want to get into that, but he left his family; he was apparently dead and he showed up as Robert Halfyard in the States.

Some of us might say to you: "Okay, we should tighten this up and make it really difficult for people to get birth certificates. They have to provide identification. They cannot easily go in there and get identification." This is great until the time I phone your ministry and say, "Here is someone who wants to fly to Italy tomorrow or next week for something and needs a birth certificate before he can get a passport." Your people over there try to be accommodating. I must say they are very accommodating on behalf of members of the Legislature.

On the one hand, I would be telling you to tighten up and on the other hand, to loosen up. I do not know whether you have the answer to that.

Mr. Swart: You are representing both wings of your party now.

Mr. Williams: More Liberal double standards.

Mr. Chairman: You are right in the middle again, Bradley.

Mr. Bradley: I am asking you to come up with the magic solution that I do not have, because it is a genuine problem. We, as members, like to get birth certificates quickly. On the other hand, how would a guy like this be able to get one? I guess he must have gone to a newspaper and taken a birth notice out of the microfiche and phoned it in or something. Maybe his member of the Legislature got it for him.

Mr. Chairman: If he had a passport, it would indicate that it was stolen or something, because you would not get a passport that easily.

Mr. Bradley: He got a passport based on the other identification he was able to get, basing that on his birth certificate. So it is a dilemma.

Anyway, you will comment on that later. No doubt your officials will provide you with the details. That is a dilemma for which I do not envy the minister. I am looking for a magic solution from you.

Mr. MacQuarrie: What about a guarantor, a responsible individual, signing the passport and knowing him for three years? There is a protection built in.

Mr. Bradley: Urea formaldehyde foam insulation—I would like to know if your government is going to take any new initiatives, particularly now that your friends are in Ottawa.

Hon. Mr. Elgie: You mean the fellow who did not take that cabinet minister's job offered by Trudeau?

Mr. Bradley: Yes, the fellow who did not take the job. Some people do not take those jobs.

Hon. Mr. Elgie: Trudeau had so much faith in him.

Mr. Bradley: Now you can use the great relationship you have with your brethren in Ottawa—

Hon. Mr. Elgie: And Montreal; it is a trio now.

Mr. Bradley: -all around-on UFFI, because we all know the tragedy. I must say that Mr. Wrye, the other critics, Mr. Boudria, and certainly Mr. Swart spent a lot of time in the Niagara Peninsula and other places talking about the UFFI victims.

A lot of those people still have not had redress. They have had to tear their apartments or houses apart and really have not been compensated. The values have gone down. There have been some test cases over whether you can get a better break on your assessment or not. There are many problems with UFFI.

Hon. Mr. Elgie: Let me interject with one statement. There is ad in the paper today: "Wanted, a house in Moore Park insulated with UFFI." I could not believe it.

Mr. Bradley: I cannot either. It must be someone who wants to-

Hon. Mr. Elgie: It must be someone who has no allergic response to it and wants to get a house at a lower price.

Mr. Bradley: It must be. It is still a problem and I am wondering what new initiatives you have and what kind of pressure you are placing on your federal friends.

I mentioned before the member for Welland-Thorold got here that I had some points to make on rent control, but he is going to yield that area to certain other NDP members, as well as making a personal response himself.

Censorship is the responsibility of Mr. Elston. I would make some general comments on it from a personal point of view, comments I have made before on what we have gone through on this issue, another tough issue.

You have a ministry where you have many tough issues to deal with.

Mr. Swart: That is why you gave it to Elston.

Mr. Bradley: The member for Welland-Thorold suggests that I would try to duck that issue by giving it to my friend, Murray Elston.

Hon. Mr. Elgie: The NDP knows exactly where it stands on this issue. They have firm resolutions from their party, telling them directly what to do.

Mr. MacQuarrie: Tell us, Jim, are you for it or against it.

Mr. Bradley: I have traditionally been on record as being in favour of a certain degree of censorship in this province. There is a role for your board. You have done the right thing in expanding the base of people on that board so it is more truly representative of the community and the standards of the community, and I think any time you try to improve upon that even more, if that is possible, that is good, because we want to reflect the real standards of the community.

We are seeing some changing views on censorship, interestingly enough. When people talked about censorship before, they talked about what they always used to refer to as old stag films. But the people who know, who watch these things now, say those are nothing compared to what is now available.

That has changed some people. I have never been in that category. I have always felt there was a need for some censorship, but even people who were pretty strong advocates of classification only, almost, have come around to the point of view that, with the kind of violence and degradation in the stuff being made today, there is a need for some degree of censorship.

I always make one point when I get into a debate with some people. I respect their honest opinion about no censorship; I respect that; I do not agree with it, but I respect it. I always come up with the argument that someone has to appear in these movies, and you have to consider them as the victims of these movies.

It is all well and good to say people can watch what they want, but what about the people who are in that life, those who have to act in those movies? Some ex-pornography stars, as they call them, have told their stories of how they were intimidated, forced into the roles they have played in these films. That has to be considered.

It is almost universal that people deplore and cannot accept the use of children in such films, whether it is pornography in terms of sexual exploitation or exploitation of violence. I think that is pretty universal. It is hard to find many people who would ever want children to be exploited in this regard.

Second, there is an increasing awareness of and concern about the effect of extreme violence and prolonged violence in these films. I have never been able to prove it—I do not know who has proved it and who has not—but I have read what psychiatrists have said and what so-called experts have said about whether showing violence or extreme deviation makes people go out and carry out these acts.

I have not come to any conclusion one way or the other, but I have a gut feeling that it probably does influence some people. I have nothing more than a gut feeling in expressing that. So I have become concerned at the extreme violence we see in these things, and it is mostly against women, I must say.

The tapes that can be purchased right now are another difficulty. You can say on one hand: "Well, we are even taking it out of the theatre; we are not even watching it in a public place. It is a private place, so why would you bother me at all with tapes?" Yet there is a chance for younger people to be exposed to a lot of things they probably should not be exposed to, and I think that is what we are concerned about.

Again, I am talking about extreme violence, extreme acts of degradation and so on. That is a problem you are wrestling with, no doubt, and I see a concern. I have had people phone me and say, "Look, it is none of your business what I watch." Maybe there are some people who can handle it, but what about the fact it gets into the hands of kids and starts to mould their opinions on what is right and what is wrong at a very young age? I wonder about that.

5:10 p.m.

I just offer those personal comments as a person who I think reflects the views of the community. I do not like the idea of censorship in principle. I do not think anyone in a democracy likes the idea of censorship in principle, but there are times obviously when there is a need for classification definitely and for some control in certain cases.

Lotteries: well, that is more for the minister of lotteries and fun. I make only two comments to you. A lot of municipalities have had a lot of problems lately because there are some new and different bingos that are not illegal, moving in from other places.

I would like to know what your latest initiatives are going to be on solving the bingo problem. I know you want to be reasonable, and bingo is a good way to make money. I belong to the Grantham Optimist Club and bingo has been

our bread and butter over the years with respect to raising funds.

I will throw out this one to members, because I find a lot of Conservatives agree with me on this, especially older Conservatives who do not always agree with your government.

Mr. Chairman: We are all here.

Mr. Bradley: I do not make this as a point because, politically, it is a lost battle anyway—but the proliferation of government lotteries has hit service clubs hard with respect to raising their own money. The money you provide has been good for service clubs. What concerns me is that the purpose of a service club or organization is to raise funds.

I was very annoyed when, in my own club, someone got up and suggested how we would go about getting a Wintario grant. It is a real breakthrough that so many service clubs are manoeuvring to find out how they can get a grant from the government. Often the people who belong to these service clubs are the very people who do not want the intervention of the government.

I can remember selling tickets. I used to go into a staff room where I taught and I would sell these tickets for five for a dollar or a dollar a book or something like that. They were cheap, anyway, and you could always sell them to everyone in the staff room. Then along came Wintario and it was like saying: "I am sorry, I gave at the office. I buy Wintario tickets." It was as though the only one was the United Way. All you had to buy was your Wintario ticket and you could get much more money back anyway.

I express that as a kind of a concern. I know it has helped my community. Obviously, if I say that, in comes the minister who says, "Does that mean you oppose the \$300,000 we just gave to the Polish hall?" or something like that. They know they have you over a barrel.

But I think a lot of people on your side and on our side of the House have been thinking an awful lot about the many government lotteries and how they have intruded into the area of privately making some money selling tickets on cars and things like that. It has cut that back considerably. I know that is not really your responsibility so much, but it does say "Lotteries" down here so I figured it was a good chance to comment on the subject.

Automotive insurance: I want to talk about that at some length. I want to let the member for Welland-Thorold speak today, so I will not take too long. But automotive insurance is something I want to talk about.

You will remember Mrs. Bruce in St. Catharines, who has to pay insurance for her son, even though he does not drive the car, because he happens to live in the same house she lives in and he happens to be in a certain age category. She has to pay the insurance premium because the insurance companies are always afraid those kids are going to take the car out, whether they have insurance coverage or not.

I want to look at the rate structure and things like that later. I want to talk about the Ontario New Home Warranties Plan Act; how that is working now and how the problems are being

esolved.

Fuel safety: Don Boudria did a lot of work in that area. I noticed you issued a press release earlier, this week or last week, on yet another initiative. Propane is good but it needs that kind of regulation. I am glad you are responding to Mr. Boudria's earlier initiatives.

Hon. Mr. Elgie: You mean when he finally got interested in it. We were talking about it two years ago.

Mr. Bradley: In reacting to those things Mr. Boudria raised with you. I know, sometimes, when you are prodded the right way, that—

Hon. Mr. Elgie: Someone had to tell him about it so he knew what to ask. I mean-goodness gracious.

Mr. Bradley: Did Hansard pick up the laughter? The laughter came even from behind me, as well as the front.

Mr. Chairman: I did not hear Mr. Swart say a thing.

Mr. Bradley: No, I am talking about the officials back here, who are nonpartisan and here to serve all.

Mr. Chairman: Mel did not say a thing. He is the only nonpartisan person.

Mr. Bradley: The last thing I want to mention to the minister, because I did promise Mel I would let him on today, is the regulation of pension plans.

I know you are responsible for some pensions and that is a real problem. Was it CCM we had problems with, Mel, where we were getting calls? Yes, it was CCM and their pension plan. It has been raised in the Legislature.

There are a lot of worries among people about whether these pension plans are going to be able to pay people off. People have contributed to it, people have banked on that security. Then a company like CCM, a big company and you would figure a pretty well-endowed company with regard to its funds, creates a real concern

about what happened with its pension plan. There are also others. I would like to know what the minister is doing in that area.

I promised I would not be overly long in my response to these estimates. I have all kinds of newspaper clippings that I will deal with later on.

I would appreciate answers from the minister on this and I know he will want to respond positively, with legislation, regulation and pronouncement, where necessary. I wish him well in establishing an even greater clout in the cabinet, the executive council as they call it, and establishing himself as a true consumer minister as well as a commercial minister.

Mr. Chairman: Thank you, Mr. Bradley. Before I turn the floor over to Mr. Swart, I would like to make a comment to you, Minister.

We are certainly very supportive of the Niagara wine growers, who feel they are paying extra taxes. I have two liquor companies in my area that employ about 1,000 people, and you know how they feel about their taxes. Anyway, we will now move to Mr. Swart.

Interjections.

Mr. Chairman: I have to get my pitch in.

Hon. Mr. Elgie: I see. You want everything.

Mr. Swart: I am pleased to take part in these estimates again, particularly with the present Minister of Consumer and Commercial Relations. He made some comment at the beginning of his remarks about having become a bit of a warrior in the House, or something of that nature—he used the term "warrior"—and that we had driven him to it.

Hon. Mr. Elgie: You drove me to it.

Mr. Swart: I have to say there is some truth in that. You have become a little testy in the House, very defensive. Over the years I had sort of thought you were on your way up to that top position.

Mr. Cureatz: He is announcing next week.

Hon. Mr. Elgie: One of those leaders with no followers, though, that is my problem.

Mr. Swart: Announcing next week? I was just going to say to him, if you revert to what you were and if you can do that quickly, there may still be a chance for you.

You know, that election is six weeks away, or something of that nature, and certainly they do need someone in there a bit on the left, even by Conservative standards.

Mr. Chairman: I am accepting your donations.

Mr. Swart: I did not say anything about a donation, and it is probably the worst thing that could happen to us.

Hon. Mr. Elgie: I want you to know that your help has just finished my chances.

Mr. Swart: As a matter of fact, Timbrell told me that yesterday, so I thought I would do the same thing to you.

Mr. MacQuarrie: You are knocking them off, one by one.

Mr. Chairman: But Larry's estimates are over

Mr. Swart: Larry is knocking himself off.

I also recall you said something in your leadoff remarks about the complexity of your ministry and the fact that the paper companies were sure glad it gives them all the business it does. I get newspaper clippings regarding Consumer and Commercial Relations.

I happen to be the critic for two portfolios. The other is Agriculture and Food, and I want to tell you Agriculture runs a close second. If I sorted them very carefully it would take me at least an hour a day just to sort through the newspaper clippings.

5:20 p.m.

I wanted to say there will be several of my colleagues coming in later to take part in the discussion on certain votes. One who was going to share these discussions with me was Jim Renwick, who is about as knowledgeable a person as there is on a lot of the legislation and policy concerning trust companies and financial affairs.

As far as I know, he is still in hospital, but apparently tests have shown that he has not had a serious heart attack and that his heart is in good condition, but I doubt very much if he will be back to take part in these estimates. However, there will be some people coming in at a later date. In my leadoff remarks, I do not intend to cover all these items, at least not at the length at which they should be covered, because other people will be coming in.

You started off your leadoff remarks, Minister, with the theme of co-operation and collaboration with the various groups for which you have some responsibility in administration. I am talking now about the travel industry, the finance industries and so on. You mentioned it was very effective and that you wanted to continue to bring about changes through that co-operation and collaboration. I do not think any of us would disagree that is the most desirable way of doing things.

I do want to say, though, there are areas where you accept no responsibility and you should; where you have no policy. I will be covering one or two of these. You cannot do it by collaboration and co-operation. In some areas, you have to have fairly tough legislation to have clout.

The member for St. Catharines (Mr. Bradley) felt you were not giving adequate attention to the consumer protection side of your ministry. I would have to agree with him on that because I believe it to be true.

If you look at the phone book, it says, "The purpose of"—and I quote here—"the Ministry of Consumer and Commercial Relations is to ensure a fair, safe and honest marketplace." That is your ministry's description in the phone book. I assume that is probably taken from the legislation—although I did not look it up—of the Ministry of Consumer and Commercial Relations.

There is a fairly substantial amount of hollow rhetoric in the outlining of the purpose. As far as consumers are concerned, they are not getting the kind of protection they deserve and the kind of protection they get in most other jurisdictions—particularly in the United States—in a free, competitive society.

It is true, and I compliment you for this, that with the Travel Industry Act and the insurance you have there, the Motor Vehicle Dealers Act, and the Ontario deposit insurance increase, you have given consumers increased protection in certain areas of your ministry. I agree that much of that legislation is good. Much of it we supported when it came into the House.

But on matters of protection, where it is a question of intervening on behalf of consumers against corporations, it is basically a hands-off policy, especially on prices. The best example of this might be the Inflation Restraint Act, which you administer, or—I think I am correct in saying—for which you had some responsibility in initiating and designing.

In Bill 179 you had one innocuous section on administered prices, where you were going to keep an eye on administered prices, and had the power to intervene on administered prices. You had another section on monitoring prices. You were going to monitor prices in general. That was superseded by the Public Sector Prices and Compensation Review Act of 1983, and you even took out of that the monitoring of prices generally.

I checked the other day at the Inflation Restraint Board to see what they had had before them with regard to prices. They said they had had one price increase referred to them in more than two years. I would not want to get the person who told me that in trouble, so I will not mention his name, but he even told me which price increase that was. You would not give it to me in the Legislature, but you said the one you had referred to the ministry was confidential information.

I asked about wage settlements, and the reply was, "We have had a few thousand wage settlements before the board". I would say that hardly seems a fair balance between wages and prices. You deal with one price increase—administered price, of course—but you deal with thousands of wage settlements. You make sure that there is not a single wage settlement that went above those limits; yet when it comes to prices, we have one referral.

On prices, I simply say to you very bluntly you do not assure that there is a fair marketplace. You take more of a hands-off attitude than does any other major province in this nation or most of the states in the United States.

You answer that you think competition looks after that aspect of it, and it does in most areas. There is inadequate competition in some areas and, as you well know, the competition legislation of the federal government is the weakest of any major democracy in the world. Your government has supported keeping it that way. I do not think that is an unfair statement. Your government has opposed the toughening of competition legislation in this nation.

I want to say to you that even on administered prices, and perhaps particularly on administered prices, you do not assure fairness. I want to take Consumers' Gas as as example. They made an application in 1982 for a tremendous increase. Much of it was a pass-through of an increase in the wholesale price, but they were allowed an increase in 1982 which enabled them to make a 35 per cent increase in their own net income in that year. It was very substantial before. Nobody could look at it and say they were not getting a good return, but you allowed a 35 per cent increase.

The NDP appealed that under the provisions of the legislation of the Ontario Energy Board to cabinet, which upheld the full increase. You will recall that the next year the same thing took place. There was an increase allowed which permitted them to increase their net income by 20 per cent. We once again appealed to cabinet with very valid arguments and once again cabinet upheld the increase which was awarded. This was during the time of the restraint legislation, but the government upheld it, even though there

was a tremendous increase in the company's profits—something over 60 per cent compounded in two years.

5:30 p.m.

Last year we decided we would go to the hearing ourselves. What they asked for, as you will recall, started out as an increase of \$26 million or \$28 million that they wanted last year for their own purpose. Eventually, on their own, they dropped that to \$20.1 million by the time it came before the Ontario Energy Board, which is the body that rules on this. We went there and opposed that.

To show how unfair the system is—and this is borne out—there were two lawyers at that hearing for Consumers' Gas and they had 20 witnesses. Many of them were there for the full time. Opposing that increase before the Ontario Energy Board for the 675,000 residential consumers was the Consumers Fight Back committee, based in Port Colborne. They were there for one day or half a day. Also opposing it was the New Democratic Party, and I was there representing our party. Those were all who took part in that hearing for the 675,000 consumers of Consumers' Gas. On the other side, promoting the increase were two lawyers and 20 witnesses.

Granted, there were some other people there for special interests. The apartment owners had somebody there for a day or something of that nature. The major gas consumers, the industries, had somebody there opposing the proposed increase. But, as for representing the consumers, I ask the minister very seriously how he can consider that as being fair.

It is true the OEB does some investigation on its own. I do not deny that. Then why do you need to have anybody there from the company? The facts are that the OEB is sitting there doing some investigation and having some reports made to what is supposed to be a neutral board.

At the hearings before that board, on the one side was Consumers' Gas with all this high-priced help, which cost the company literally hundreds of thousands of dollars, while representing the consumers was the Consumers Fight Back group, which had a lawyer there for one day, and myself representing the NDP. This is what was there at that one hearing. At a previous hearing there was not even that.

Because our research had done some investigation into it—and I think we made a fair presentation—we stated at the hearing that the company's request for an increase of 7.7 per cent in its revenue was not warranted in any sense. We said that any increase at all was unwarranted, the

economy could not afford it and the company in no way needed it.

After reviewing all of the evidence, the OEB came to the same conclusion as the NDP. On page 125 of their report, they state, "The existing rates will produce the revenue required by the company for the test year and the board will issue an order approving the continuation of these rates". They allowed no rate increase, as you well know, in their decision in the fall last year.

They went on to state in their report, and they took a page to do this: "As noted earlier herein, the board received a presentation from Mr. Mel Swart, MPP, who appeared on behalf of the NDP caucus to argue that there was no case for Consumers' to increase its rate for the 1984 test year. The board has reviewed the arguments presented by Mr. Swart and his comments have been taken into consideration."

Whether that is throwing a sop out to us, whether it had a bearing on it—

Hon. Mr. Elgie: It is better than saying you should not have been there.

Mr. Swart: That is right. I suggest it was because I was there, not perhaps because of our arguments, but because of the flak and the opposition we had raised over the previous years, and justifiably so, to the tremendous increases which had been awarded to them. The OEB wanted to show at that time that it was going to be tough with the company. If we had not been there and if the Consumers Fight Back group had not been there, I suggest there is better than a 50-50 chance that Consumers' Gas would have been given some increase. Whether it would have been the full \$20 million or \$10 million, I do not know.

I further suggest that a government that is responsible for protection of the consumers has the responsibility of seeing that there is somebody there to protect the consumers. There was nobody there at the previous two hearings.

How can you say in your definition of your responsibilities that the purpose of the Ministry of Consumer and Commercial Relations is to ensure a fair, safe and honest marketplace when here we have a monopoly whose rates are set by the Ontario Energy Board, which bases its decision on the evidence submitted before it, but there is no assurance that you will have anybody there to represent the consumers?

How can you say that is a fair marketplace? I suggest it is not a fair marketplace. Other jurisdictions have recognized this fact and have ensured that there is somebody there to represent

the consumers. We should have that in this province.

Ontario Hydro is another example. During all this period of restraint, Hydro, as you well know—and you do not have control over it, but you ought to have some control over it—has set rates which have been far above the proposed restraint level.

I do not think I need to remind you that the OEB has only powers of recommendation; it has no powers of control, as it should have. The OEB, after all of the hearings in 1982, recommended that there should be a 6.5 per cent increase in Hydro's wholesale rates. Hydro said, "To hell with you," and increased them by 9.6 per cent that year.

Where was the Ministry of Consumer and Commercial Relations, which is supposed to protect? Once again, there was nobody there on behalf of the consumers before that OEB hearing.

In 1983, Hydro increased its rates by 8.4 per cent. In 1984, again a year of restraint, 6.3 per cent was recommended by the board, and Hydro increased its rates by 7.8 per cent. Now we have a recommendation of 8.6 per cent for next year, and I guess rates are going to increase by 8.6 per cent.

All those increases were far above the restraint level which you and your government set, and there was no intervention to present the side against these increases in rates. It is not unfair to ask how you can say you are ensuring a fair marketplace. Those are monopolies. Their rates are set by a tribunal. Surely if you are going to have rates set by a tribunal, both sides have to be heard and heard somewhat equally.

The Ontario government has set up the legal aid plan and legal clinics, so when cases are heard before the courts there is some fairness. Yet on administered prices you do not do the same thing. Quite frankly, there is not fairness and the consumers are suffering substantially because of it.

At the last hearing, once again one of our members, the one who has responsibility, Mr. Di Santo, went to the OEB hearing and expressed the opposition of our party to the rate increase. Again, he had substantial help from our research department.

He gave four reasons. He actually gave much more than that, but the four main reasons were these. Ontario Hydro's spending is inflationary and runs directly counter to the government's inflation restraint program. Hydro has repeatedly promised to keep its rate increases at or below inflation. Hydro-continues to borrow money for capital projects at the rate of roughly \$2 billion per year to finance the construction of generation facilities that will provide more electricity than the province needs now or is likely to need in the foreseeable future. Given the current economic climate in the country and in the province, increasing energy prices undermine the competitive position of Ontario industries and put an unwarranted financial burden on those in our society least able to bear the cost.

Mr. Chairman: Excuse me, Mr. Swart. Could you just finish your line of thought on this Hydro thing? We would like to go up to the House.

Mr. Swart: I will try to get it back again and finish it.

Mr. Di Santo elaborated on these to quite a large extent. When the board brought down a recommendation, it gave Hydro something like \$71 million less than Hydro had asked for. They had asked for a 9.1 per cent increase. The board

recommended 8.6 per cent and this time Hydro accepted the 8.6 per cent. They did not increase it as they did in the previous year.

Once again, I cannot say categorically that our member being there and the New Democratic Party being there and making an issue of it resulted in that \$71-million saving, but I suggest that it did have a bearing on it. I also suggest that it is not the responsibility of an opposition party such as the NDP to appear at these hearings. That is the responsibility of government, especially when you say you are going to ensure there is fairness in the marketplace.

Mr. Chairman, there may be a vote upstairs, so perhaps you would like me to conclude at this time.

Mr. Chairman: Yes, thank you. You will be on again tomorrow morning right after routine proceedings.

The committee adjourned at 5:41 p.m.

CONTENTS

Thursday, November 1, 1984

Opening statements: Mr. Bradley	J-387
Mr. Swart	. J-400
Adjournment	. J-404

SPEAKERS IN THIS ISSUE

Bradley, J. J. (St. Catharines L)

Charlton, B. A. (Hamilton Mountain NDP)

Cureatz, S. L., (Durham East PC)

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Kolyn, A.; Chairman (Lakeshore PC)

MacQuarrie, R. W. (Carleton East PC)

Swart, M. L. (Welland-Thorold NDP)

Williams, J. R. (Oriole PC)

From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister



Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament Friday, November 2, 1984



Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 2, 1984

The committee met at 11:55 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

The Acting Chairman (Mr. Mitchell): Order. We will begin this morning's proceedings.

Mr. Swart: Mr. Chairman, the number of committee members is kind of sparse this morning, even the front table, and I guess you have a dual capacity.

Mr. Elston: The rest of the members were told that Mr. Swart was speaking this morning and that may be the problem.

Mr. Swart: No, the story I got was that the two Liberal members had carried on so long the members could not take any more.

Mr. Elston: That is right. There is probably very little left to discuss in any really intelligent fashion.

The Acting Chairman: Please, let us proceed, Mr. Swart.

Mr. Swart: Mr. Chairman, you were the parliamentary assistant to the Minister of Consumer and Commercial Relations (Mr. Elgie) for a number of years and it is nice to have you back here in the chair again today. I will have to direct my remarks to you and then perhaps you can convey them to the minister.

The other members of the committee will know I had been covering a number of consumer matters when we adjourned last evening. I was covering them under the umbrella of the purpose of the ministry, under which it says the purpose of this ministry is to ensure a fair, safe and honest marketplace. I was pointing out that is not being accomplished.

Yesterday afternoon I mentioned and dwelt at some length on the Inflation Restraint Board and the policy of the Ontario government which is biased against the workers on the matter of restraint compared to the corporations and prices. There has been one administered price referred to the Inflation Restraint Board and thousands of wage settlements referred. I pointed out that imbalance.

I dwelt at some length on the Consumers' Gas hearings where no one is representing the 650,000 consumers, but Consumers' Gas is there

steadily with 20 witnesses and a couple of lawvers.

I dealt with the matter of Ontario Hydro rates, showing how restraint had not been applied on those rates. Once again, there was no one at the hearings generally, with the exception of the New Democratic Party, as it had been at the Consumers' Gas hearings. Once again, we made representation at the last Ontario Energy Board hearings with regard to Ontario Hydro, that it had consistently exceeded the five per cent guideline set by this government.

I was just concluding my remarks on Hydro and pointing out that at all of these hearings on administered prices where we have a monopoly, and where the only way we can protect the consumer is through an independent board setting the rates, there has to be some kind of equality in the ability of consumers to put their side, vis-à-vis that of the utility promoting the increases.

This is not something new to this party. We have been demanding this sort fairness for years, without any success. In fact, Mr. Chairman, if you look at the replies of the ministers over the years, they say the hearings are fair. They tell us the Ontario Energy Board will dig into these matters and get all the information, and so the hearings are fair.

It is rather interesting to see now that the OEB may be having some doubts of its own, because the board has issued a press release—it is not dated, but it came out within the last couple of weeks—saying it is going to hold hearings on November 20 to determine whether it should fund the public interest groups and consumers at board hearings, whether for hydro or gas rates, or for any of the other matters it covers.

Part of that press release reads, "These matters are the subject of public hearings in which the participants have generally borne their own costs." They are talking about gas rates and hydro rates, etc. The purpose of the November 20 hearing is to decide whether it is appropriate for them to continue to do so, or whether some form of arrangement should be made whereby some or all of those costs could be recovered.

"'What we are trying to do,' Ontario Energy Board chairman Robert Macaulay says, 'is to encourage as much public participation in our hearings as possible. One of the things we shall be looking at is the extent to which people are staying away'''—I suggest to the parliamentary assistant this is significant—"from our hearings because they feel they cannot afford to take an active part in them."

We know very well people are staying away in droves because they cannot take an active part, because they cannot make the kind of input that is necessary to persuade the OEB. Speaking to you, Mr. Chairman, as parliamentary assistant, this is a move in the right direction. It points up the unfairness of what has been taking place up to now, which we have pointed out repeatedly in this party. Not only that, at very best it is only a half measure.

The federal government subsidizes the Consumers' Association of Canada to appear at the Bell Canada hearings to represent the consumers. So they get there and they will spend perhaps \$150,000. One of the recent Bell Canada hearings cost over \$2 million. I suggest we cannot have fairness in arbitration when we have that discrepancy between those who are promoting the increase and those who are defending the rights of the consumers.

What we need in this area is a public advocate. We now have a proposal before the Canadian Radio-television and Telecommunications Commission for deregulation in the case of long-distance telephone calls. All the people in this room, and I think most of the people of this province, are aware of what that may mean to them.

I have a clipping in front of me from the Toronto Sun, September 9, 1984, headlined "Ma Bell Calling for Big Rate Hike." The article talks about the deregulation which, of course, has the greatest impact on Ontario, Quebec and Newfoundland, because they are served by Bell, at least locally. It says Bell said monthly rates would increase by \$1.85 in the first year, with rates jumping to between \$11.60 and \$20.20 per month by 1990. That means the rates are almost going to double in that time. That is with the anticipation that only a small percentage of the deregulated business would go to CNCP Telecommunications.

Bell has not always been very reliable about its projections. When it has applied for increases year by year, it has talked about the desperate situation it is in. When the CRTC changed its regulations and permitted telephones other than those owned by Bell to be connected to the system, Bell predicted very dire consequences for rates and profits.

That has not taken place. Bell Canada's profits are really quite a disgrace to governments because they have no power to intervene. Its profits are really quite a disgrace in this so-called time of restraint. When net income goes up from \$555 million in 1981 to \$615 million in 1983, and to \$829 million last year, that indicates there is not much restraint being applied to Bell. It is exempt from the policy of this government and from the policy of the federal government.

Mr. Elston: We feel the same way about the effect the recent increases in long-distance rates have had on the small independent telephone companies that operate in a good number of centres in southwestern Ontario. That is also an integral part of the whole question you are raising. I want to bring it into focus, so that perhaps there could be some comment.

I realize the organization or administration of that part of communications really falls under another ministry, but perhaps we could consider those increases and profits for the small locally owned and operated companies as well, because it is part of this larger question. The hearings will no doubt also affect what happens to those individual companies.

Mr. Swart: I am glad to express my comments on that. Deregulation will very much adversely affect those small companies as well.

Mr. Elston: Perhaps it will eliminate them.

The Acting Chairman: I have been flexible in allowing the discussion to go on, because I realize you are all directing yourselves towards the inflation restraint program. I understand that.

Mr. Swart: I think we will have a chance to discuss those details when we get to the various votes. I was going to say that Bell Canada has not been very accurate in its predictions of what would happen if further competition was allowed. Its profits have increased dramatically in spite of the fact that connection of telephones other than its own has been allowed.

However, anybody who takes any trouble to investigate the current proposal will realize that if it goes through there is going to be a dramatic increase in Bell Canada rates for the residential consumers of this province, and likely for commercial customers as well.

12:10 p.m.

A lot of studies have been done; I have many of them here. They show that for every dollar in revenue received for long-distance service, the actual cost is about 40 cents. For every dollar received for local telephone rates, it costs about \$2 to provide it. If we permit the long-distance revenue to go away from the company that is providing the telephone service, there is unquestionably going to be a tremendous increase in the telephone rates. Bell Canada predicts that 250,000 people in Ontario will no longer be able to afford telephones; obviously it is going to paint the worst possible picture.

Having said all of that, if this deregulation is permitted it is going to have a very dramatic and detrimental effect on the local telephone rates in this province. I could go into this in some depth, but I will not, except to say those hearings are now taking place.

I am sure members are aware of that. Final representation can be made, I believe, until March of this coming year. But these hearings are going to be completed within about two weeks, and the Ontario government has not yet decided whether it is even going to make a submission. Granted, it has people down there with a watching brief, but it has not even decided yet whether it is going to make a submission. This is handled under the Ministry of Transportation and Communications at the present time, but any ministry that says its purpose is to ensure a fair, safe and honest marketplace has to intervene in something of this magnitude.

We are talking about \$100 million for every 10 per cent of the long-distance revenue that is taken away from the Bell system: a \$100-million increase in the total additional revenue that it will have to get from local rates for every 10 per cent that is taken away.

It is estimated it would immediately lose something like 17 per cent. These figures come from Bell, but I do not know how they were arrived at. If that is what it lost, we would be talking about \$170 million in additional revenue that is going to have to come from the local rates of the telephone subscribers in this province.

We have a government that has not yet even made up its mind whether it is going to make a submission or not. If this ministry means what it says on its purpose, surely it ought to be intervening in something of this magnitude for the consumers of this province, the customers of Bell.

Mr. Williams: Mr. Chairman, I have a point of clarification. As the member for Welland-Thorold (Mr. Swart) and the member for Huron-Bruce (Mr. Elston) have pointed out, the merits of the application and all the detail to which they have addressed themselves are, of course, matters that would be more appropriately discussed before the Minister of Transportation and Communications (Mr. Snow).

When the member started out yesterday, as I recall, the perspective he wanted to put on these hearings was, as I understood it, how the consumer can better access the various boards and agencies that are charged with the responsibility of making a determination on these applications.

While all the detailed information he has given us is of interest and concern, obviously it would be better presented—and I am sure he will do so if he has not—either through the estimates of the Ministry of Transportation and Communications or through questions in the House. That aspect of it would be better responded to by that minister.

There may be some way we can get to the matter of how the consumer can better access these boards to get his point of view across. One the member mentioned is intervention by the government per se. But I think he was also addressing the question of whether or not government should be assisting financially so that individuals can go on their own or collectively. That is the point he is trying to get across to us today.

Mr. Swart: Regardless of the point I am trying to get across, there will be the opportunity for the ministry or the parliamentary assistant to answer these things at a later date. If you are suggesting—and you did not say this—I am at least partly out of order in this presentation, I want to point out that—

Mr. Williams: No. I am just trying to get a focus on it.

Mr. Swart: I am coming to that focus. May I say I am right on in discussing this during the lead-in, Mr. Chairman, because what I am leading up to here—and this will answer Mr. Williams's question—is the need for the Ministry of Consumer and Commercial Relations to have a comprehensive section in the ministry to deal with all consumer prices. In a minute I will be coming to the need for a public advocate to deal with all of the regulated or administered prices we have in this province.

If I could just carry on with this example of Bell Telephone—

The Acting Chairman: I would not carry on, Mel, but I would proceed.

Mr. Swart: I would also like to remind this committee that the proposal by CN/CP would apply only to the seven major cities, those located in Ontario, Quebec and British Columbia.

This means that the other people, who are not getting the benefit of the cheap long-distance

rate, people in all other centres across this nation, are going to have their rates substantially increased without the opportunity of getting any benefit of lower long-distance rates. Apart from the overall general detriment to the phone system, there is going to be a tremendous injustice created between various areas of the country.

The point I want to make, and I guess I have said it a couple of times already, is that all kinds of studies have been done, in which the Ontario government has been involved, which would provide the basis for opposition to this deregulation.

Last month the New Democractic Party government of Manitoba submitted its objections to the Canadian Radio-television and Telecommunications Commission in a very well-reasoned presentation, based on the study that was done co-operatively by many provinces in this nation on this whole matter of deregulation.

This province, and this ministry which is the one that has the primary responsibility for this, should be setting up the necessary structure to deal with these kinds of issues.

I know the Ministry of Transportation and Communications has taken this under its wing, sort of by default, because MTC has had to deal with a number of the small local telephone systems we have here and it has had that responsibility traditionally.

What we are really talking about now is a matter of consumer prices, and that falls under the responsibility of this ministry. We, therefore, should have in this ministry the necessary structure for dealing with all these kinds of increases by regulatory bodies in particular.

I think maybe it should go further than that, but I do not see how there could be any argument that there should not be a branch of this ministry that takes a great deal of responsibility in these matters.

12:20 p.m.

It is my view and my party's view, and I think anyone who goes into this in depth would agree, that the kind of protection which is needed for consumers is not going to be provided by some ad hoc arrangement of funding those groups. However worthy and valuable they are—and many of them are, whether it is the Consumers Fight Back committee, which is based in my area and did take part with some success in the hearings before the Ontario Energy Board on the requested increases by Consumers' Gas, or the consumers' association, which has done a very valuable job before the hearings of the CRTC on

increases requested by Bell Canada—they simply do not have the funds, the structure and the organization to carry on the kind of defence needed for the consumers and customers of these utilities

I would point out that the United States has less public ownership than we have here. The alternative to the Bell telephone rates and many of these other rates where there are natural monopolies is to bring them into public ownership. In most instances that is the best way. The telephone systems in Manitoba, Saskatchewan and Alberta prove that. The rates there for comparative cities are 25 per cent lower than they are in this province and in Quebec. Studies have been done of this; there is no question that when it comes to monopolies of this kind, they should be under public ownership.

In a country like the United States where they reject public ownership even more than we do in this country, they have set up agencies and public advocates to protect the consumers at these rate hearings. For that matter, in many other ways it goes much further than just the rate hearings.

There was a report put out by the public advocacy groups in the United States. The one I have in front of me is about three years old, but I would like to read some of it because I think it is reasonable.

I think any reasonable person and any reasonable government, regardless of their philosophic attitudes, would agree that where we have monopolies, the consumers must have very substantial protection. It can only be given, as I say, if there is some equality of representation before these boards.

The state of New Jersey was the first to get into the field of having a public advocate. They established a public advocate there in about 1974. Since that time 27 other states, more than half of the states in the United States now, have introduced a public advocate to protect the consumers.

Mr. Williams: What are the terms of reference of the public advocate?

Mr. Swart: I will tell you. If you will just wait a minute I will read this to you.

Mr. Williams: I would be interested in knowing.

Mr. Swart: In New Jersey, included in the public advocacy structure is the ombudsman of the state. They deal with a great many areas, but they have one section of the rate council in which a public advocate deals with all applications for rate increases by utilities and by the monopolies. I want to read out one page of this report.

"A division of rate council within the DPA"—which is the Department of the Public Advocate—"has consistently challenged rate increases made by New Jersey's utilities, saving the state's consumers over \$1 billion since 1974. The DPA legal staff investigates each rate increase sought by a utility before the board of public utilities. Occasionally, the DPA will agree with some portions of a company's request, but for the most part, the rate council has found utility requests to be unreasonably high.

"Consultants are frequently retained by the division to examine the books, records and management practices of a company to see exactly what costs are being passed on to consumers through rate increases. For example, an outside consultant contracted by the rate council found faulty management practices by public electric and gas services at two nuclear power plants in southern New Jersey had resulted in avoidable construction cost overruns amounting to \$70 million. The rate council sought to have \$40 million of the cost overruns deducted from the utilities rate base and was successful.

"An insurance section within the rate council also effectively seeks a check on insurance rates in this state. Rate council attorneys also appear in hospital per diem rate cases before the department of health," and this is significant, "The division operates without a state appropriation, applying an assessment formula to each utility seeking a rate increase. These assessments are designated operating costs by statute and are passed on to the consumer."

They go on to say there are 27 other states that have some sort of consumer representation in utility rate proceedings. This is a 30-page document, and I would be glad to turn copies of it over to the minister.

Would you not agree—and perhaps you can deal with this in your reply or in the reply from the minister—that where there are utilities such as Consumers' Gas or Bell Canada or Ontario Hydro that have expensive legal counsel, and where there is a hearing that sometimes lasts a month or two months and they have all these very expensive witnesses, the end result of that cost—as I say, with Bell Canada, it was \$2 million—is passed on to the consumers in their utility rates? There is no question about it. They have no other source of revenue.

If that is the case, why should consumers not be able to provide their side adequately at these hearings and have that included in the utility rates, if necessary? Why should there be only the one side? The irony of all this is they are given no protection against the increase in the rates and then they are charged in their rates the cost of the company promoting the increase. Surely there is something unfair about that.

When the Ministry of Consumer and Commercial Relations permits this sort of thing to take place, how can it say its purpose is to ensure a fair market place? It is not a fair market place when that sort of thing exists. We need a public advocate in this province to handle all of these kinds of things so as to protect the consumer.

The state of New Jersey put out a report that estimates the customers of the public utilities in that state have been saved something like \$4 billion up to the end of last year. Nobody has really questioned it. In every state that has introduced the public advocate system to protect the consumers at rate hearings, it has been found to be successful. Not one single state has abandoned it even if it has a more right-wing Republican government.

Mr. Williams: I believe you mentioned some other states that have public advocates.

Mr. Swart: Yes. Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Ohio, Pennsylvania, Rhode Island, South Carolina, Utah, Virginia, West Virginia and several others since this report was printed.

12:30 p.m.

Mr. Williams: Why did you not just mention the ones that did not? It would have been quicker.

Mr. Swart: Yes, it would have been. The public advocate system was only started in 1974. That is how fast it has spread because it is so desirable. I am suggesting that the government of this province, even though it is a Conservative government, could incorporate this kind of program without in any way compromising its right-wing principles. They have done it in the United States.

I realize this government will not accept some of the things I propose, such as public auto insurance, even though they are beneficial, but here is something it could and ought to accept. It has proven its worth. As I have already stated, the cost to the state is zilch because the public utilities have to pay into the fund to pay for the consumers' defence.

Not only is that fair, what also happens, as they have found since they have had this, is that the public utilities do not ask for as large an increase or any increase unless they really need it.

We have two instances where Consumers' Gas in 1983 originally asked for an increase of \$27 million or \$28 million and later dropped it to \$20 million. They were not given a cent, partly because of our intervention. The report of the Ontario Energy Board gave credit to the New Democratic Party for appearing before that hearing. We have Bell Telephone, who asked for an increase and did not receive anything. It was dropped.

I suggest that if we had a public advocate and these utilities know there is going to be a very searching inquiry into the justification for those increases, they are not going to proceed with applications unless they really need them.

Mr. Williams: I guess the question one would have to ask is whether those other jurisdictions have the same type of mechanism or procedures in place that would permit the same type of in-depth reviews of these applications that we may have here, either on the federal level or provincially. I wonder whether the public advocate type of arrangement is in lieu of something that we may have here, that they would not have in those jurisdictions. I only raise that as a question. I do not know.

Mr. Swart: I can reply to that question. I have looked into this enough to know that there were and still are great variations. I will not intimate that these public advocates are all the same; some of them just handle rates and others handle a great many things. There was a great variation in what they had before. Some of the states had regulatory bodies that went into the investigation in as much depth as the ones do here in Ontario or Ottawa.

There is another dimension to this. The public should have the right to have these regulatory bodies to be seen as being fair. That is not the case at present. I am suggesting it is not fair and it cannot possibly be fair if the one side is able to present \$2 million worth of evidence and the other side can present only \$1,000 worth of evidence, \$10,000 or even \$100,000 worth. It is impossible for that to be fair. It also has to be seen to be fair.

Whatever influence the honourable member may have, I would hope he would look into this matter and have the minister look into this matter in some depth. I suggest it is something this government could incoporate, could get credit for, and nowhere would it be contrary to the philosophy of the government.

Surely those are the kinds of things the people in this ministry are looking for and, in fact, it will cost the government very little or nothing. Surely that is the kind of thing this government, or for that matter any government, ought to be looking for. It will bring about a new degree of fairness.

Mr. Williams: Was that the name of the bill the member introduced?

Mr. Swart: Yes, it was. I introduced a private member's bill on the public advocate. I believe the debate on that issue was last spring. Those who opposed it really did not bring out very valid evidence. Perhaps members would like to read over that debate again. I do not remember the Liberal vote; I think they were split on it.

I have dealt at some length with the public advocate issue and I am going to leave it, but I want to say I have dealt with it at length because it is something that is desperately needed. As I have already said, it is something the Conservative government in Ontario could implement that would be tremendously beneficial to the residents of this province. It would bring credit to this government and would not compromise its philosophy.

I want to go on, perhaps more briefly than I had intended, to say it is not only on administered prices of monopolies that this government and this ministry do so little to protect the consumer. There are other price areas where, for a variety of reasons, consumers are being gouged and do not have any natural protection, either from boards or from complete competition.

One I have already mentioned is automobile insurance. Ontario is the only major province in this nation that does not give some form of price protection to consumers with regard to auto insurance rates. It is the only province that does not have some agency that looks at rates or has power with regard to the setting of those rates.

This government has traditionally totally opted out of that. I suggest it is not giving fair protection to the consumer. The long-range answer for auto insurance is, of course—and I use those words advisedly—public systems run by agencies of the provinces such as those in Saskatchewan, Manitoba, British Columbia and, to a lesser extent, Quebec.

Those systems have never been set up by Liberals or Conservatives. In the three western provinces they were set up by the New Democrats, and in Quebec it was set up by the Parti Québécois. They are systems that have proved to be so good that subsequent governments, whether Liberal, Conservative or Social Credit, have kept the programs more or less intact

because the public wants them. The public knows the benefits of them and, therefore, those governments do not dismantle those programs.

Mr. Williams: Did British Columbia not modify its program?

Mr. Swart: They modified it, but not substantially. Most of it is still compulsory insurance sold through the Insurance Corp. of British Columbia.

All the studies that have been done, including the one by the Ontario government, show that the rates are 15 to 20 per cent lower in comparative-sized municipalities, with comparative percentages of accidents. To apply a 15 to 20 per cent reduction to the people in Ontario would mean a saving to automobile owners of between \$300 million and \$400 million annually, because present insurance costs in Ontario total about \$2 billion.

12:40 p.m.

Claims settlements are much faster. Where they have that system, the average is about half the time. They get rid of noninsured vehicles because it is tied to the issuance of the licence plate. A person does not get licence plates unless he has insurance, so we would not have to worry about the three or four per cent of automobile owners who are driving around this province without insurance at present. Those are this government's own figures. I got them from the minister. Probably about 200,000 people are travelling the roads of this province without insurance.

If one has insurance and happens to be involved in an accident with one of those cars, as we know, the amount of liability one can collect is much lower. I think I am right in saying that the maximum one can collect at present is \$200,000. Even if one has injuries that amount to \$500,000, all he can collect is \$200,000. That can be eliminated by public auto insurance premiums.

Mr. Williams: As we know, and I think the minister mentioned this in his opening statement, that is under review.

Mr. Swart: I know it is under review, but there is no proposal to bring in a public auto insurance system. As long as we do not have that kind of system, regardless of the policing we do, we are not going to eliminate totally or even bring down to a reasonable level the number of those who are driving without insurance. Under compulsory insurance we may reduce those 200,000 people who are driving without insurance to 150,000 or 100,000, but as long as they

can cancel insurance and keep on driving, they are going to do it.

My assistant got the figures on this. Last year something like \$14.5 million was paid out in claims by the motor vehicle accident claims fund; the previous year it was almost \$17 million, in 1981-82 it was \$15 million, in 1980-81 it was \$18 million and in 1979-80 it was \$20 million.

Of course, before that time we did not have compulsory insurance. Quite frankly, I suspect a lot of this money carries over from the time when there was no compulsory insurance, because certainly the number of those who are driving without insurance now is far smaller than it was.

Even that in itself, if it is true—and I see Mr. Crosbie nodding his head—is a condemnation of the system. If five years afterwards we are still settling the claims of people who were involved in accidents, that is a tremendous condemnation of the system.

The only way we will really get fairness in this whole thing is by going to a public auto insurance system such as they have in Manitoba, Saskatchewan and British Columbia. It was introduced there by the New Democratic Party and will be introduced here in this province by the NDP when we become the government of Ontario.

Mr. Williams: Surely you would not want things to move that slowly, would you?

Mr. Swart: You may be surprised at how quickly it will move, with the disarray there is in the Liberal Party and the need for an alternative.

Mr. Elston: I think what the member for Welland-Thorold really wants is another public board to take care of another leader. Mr. Lewis is in New York and the member for York South (Mr. Rae) will shortly be looking for a position. I think he will be looking for the creation of another government program that will take him out of the ranks of the unemployed.

Mr. Swart: At least Stephen Lewis did not sell out the party. He did not leave as a sitting member to take that public job.

Mr. Elston: He has been on the government dole for a long time, I understand, as a member of the Ontario Labour Relations Board, which is under the auspices of this government. Even though he represented a particular point of view, he now is very comfortable with the Conservative position put forward by the Prime Minister of this nation. That would seem to indicate something to me about where he has been sitting for the last half dozen years.

Mr. Swart: Perhaps you would intervene, Mr. Chairman, but only after I reply.

Mr. Elston: Did I hear the member say, "Help me"?

Mr. Swart: If the member knew about Mr. Lewis's involvement, he would know that he is being involved on the side of labour and in almost all instances is being paid by labour, not being paid out of public funds. I am sure he knows that. He just wanted to make a bad point very poorly.

The Acting Chairman (Mr. Stevenson): This discussion is very interesting and informative but maybe we should get back on topic.

Mr. Swart: I am going to get back. I want to tell the parliamentary assistant that I went to my office on October 21, which was a week ago last Sunday, and a young man by the name of Dave Reece, who lives at 49 Semley Avenue, came in to tell me that he was on a work program where he was making approximately \$200 a week net.

He had to get a car to drive to work. He had not bought it yet, but he was buying a 1976 Vega station wagon. This young man was 19 years of age. He came in to tell me that he had gone to the majority of the agents in Welland to get insurance which, of course, he has to have under the compulsory law. He went to F. E. Coyne Insurance Brokers Ltd. in Welland to get insurance. This man has never so much as had a parking ticket, let alone committed any driving offences.

He went to the F. E. Coyne insurance company in Welland and he found that insurance for one year would cost \$1,776.76. If he wanted to get it for half a year, it would be \$918.

He went to Arthur Boulanger insurance and the price there would be \$2,000 for a year. He went to the Co-operators insurance, the biggest one in Ontario, and they would sell it to him for six months for \$637, which is about \$1,300 a year. He went to the Welland Insurance Brokers Ltd., and the price there was \$1,542 a year. He went to Honsberger and Walters Insurance Brokers and their price was \$1,528. He went to Lostracco Insurance Brokers Ltd., and their price was \$1,627. He went to James and their price was \$982 for a half year. He went to S. O. Mason Brokers Ltd. and their price was \$970 for a half year.

This was a man who had net pay of \$200 a week. He said, "I cannot find that kind of money immediately to pay for insurance." He talked to me of what an injustice it was because it was three, four or five times that paid by another driver, who was 35 years of age, who also had not lost any points and who had not had any bad driving record.

I am sure members are aware that not only is there a proposal now that insurance rates generally are going to be increased dramatically, but there is also a case now before the Ontario Human Rights Commission on this very issue of high rates for young male drivers.

A Mr. Michael Bates has taken this issue to the Ontario Human Rights Commission. I want to read from a report in the Toronto Star on

September 19.

"It is 'reasonable' for young, unmarried male drivers to pay more for car insurance because the cost of their traffic accidents is three times the Canadian average, an Ontario Human Rights inquiry was told yesterday.

"But Lee Alexander, chief actuary and vicepresident of the Insurance Bureau of Canada, says the rates private companies charge for auto insurance are based more on market considerations than statistics on accident claims.

"Under questioning by Human Rights Commission lawyer T. H. Wickett, Alexander acknowledged that in 1982, total premiums collected from young drivers far exceeded what was paid out in accident claims for the same group."

12:50 p.m.

Here we have an actuary admitting that. I ask the parliamentary assistant again on behalf of the ministry, where is the fairness in the market-place? He must be aware that in the provinces that have the public system, such as Manitoba, Saskatchewan and British Columbia, the extra premiums one pays are based on the person's driving record. There is substantially no difference. I say "substantially" because part of the premium goes from drivers' licences into the insurance fund. A younger driver may pay \$20 more for his driver's licence. They pay slightly more if they are like this man here, Mr. Michael Bates, who is a 21-year-old, or the 19-year-old in the example I gave.

My assistant, Mr. Troina, who is in this room, also got for me through the library research staff here a comparison of the rates in the various areas, compared to BC, Manitoba and Saskatchewan where they have the public system for young drivers and, for that matter, for numbers of these drivers. I will not take time to quote them all, but here are the comparisons made for driver number 3 by the library research.

A 21-year-old male, single, no other drivers, has been driving for five years and has one accident within the past year due to icy weather conditions. There is \$1,000 damage to the other car and \$2,000 damage to his own. He is not

charged and has no tickets in the last five years. This is a comparison of rates.

In Cambridge that person would pay, depending on two different insurance companies, Allstate or Royal Insurance, either \$1,609 or \$2,248; in Hamilton, \$1,974; in Cornwall, \$2,600 or \$2,005; in Ottawa, three different companies, Kemper, Safeco or Wawanesa, \$1,926, \$2,586 or \$2,586; in Peterborough, \$2,162 or \$2,709; in Timmins, Commercial Union, \$3,447, Albion Insurance Co., \$2,212; in Toronto, Liberty Mutual, \$3,402, and Travelers, \$2,235.

In BC he would pay out \$918 for the year. That is the result of changes by the Social Credit government. In Manitoba he would pay \$421 in the city of Winnipeg. In Saskatchewan he would pay \$491. What a difference! Would you not suggest that is greater fairness? If the purpose and the objective of the Ministry of Consumer and Commercial Relations is to provide fairness, then I think it should go to the system they have in those other provinces.

In this province they have even refused to put in a rating board, such as Alberta has. Every automobile insurance company that wants to increase rates has to go before the board and get approval. They tell me on the phone they have saved literally tens of millions of dollars for the people of Alberta. At present the Alberta rating commission is sitting to deal with this matter.

They have private insurance companies and the commission is sitting to deal with this matter of terrifically high rates for young drivers. They believe they will be bringing in a report to recommend that rates be based on driving records, regardless of age. They think that will be passed by the Alberta government. That, of course, is speculation.

They have two full-time people and one half-time person doing this. The costs of that rating board are in the neighbourhood of \$150,000 to \$175,000 a year. I would say that would be a good investment to provide fairness for the people of this province.

Mr. Williams: Does your research indicate in any way that the incidence of accidents is in direct proportion to the number of automobiles and drivers in the varying provinces, given that there is a substantial difference in vehicles in operation in the different provinces? Would that factor not have some bearing on the premiums that are payable?

Mr. Swart: There is no question that the frequency of accidents is related to the population and size of the cities. That is why I tried to

compare a place such as Winnipeg with Ottawa. However, the significant thing is that, with regard to looking at the claims versus premiums ratio, the 15 to 20 per cent cheaper rates apply, given all the factors, in those provinces that have gone to the public automobile system.

The investigation done by your government shows this to be the case. If you want any argument, I can bring that in with me next Thursday and quote from your own reports. There is no question about it.

I introduced a private member's bill in the House–I suppose I have introduced it half a dozen times–to provide a rating board here. It was rejected every time. We had a debate on it on one occasion. It was rejected by your government. I cannot understand why even a Conservative government is not willing to have a public advocate such as they have in so many states in the United States and why you totally reject the whole principle of giving adequate and fair protection to the consumers of this province. Incidentally, as you have heard me say, that deals with insurance rates also.

I had hoped to finish today, but I have been delayed somewhat, at least partly because of interjections I received from the parliamentary assistant, which I did not receive from the minister.

Mr. Williams: Those were questions of clarification.

Mr. Swart: I was saying that a bit facetiously. The questions you asked were fair questions. Rather than go to another subject, it is two minutes to one and perhaps it would be wise to adjourn now and reconvene on Tuesday.

Mr. Bradley: Before we adjourn, can we set up some timetable for dealing with specific areas with the minister? Or has this been done?

We may not go one, two, three, four, five, but so we know who can be in for rent control and who can be in for various aspects. Then we can have the right people here at the right time. It will help both the ministry officials and it will help us as individual members, to have the right people here.

The Acting Chairman: I believe there was an agreement that as soon as the minister has finished responding to the critics' replies, we are going to take whatever time is left and divide it at that point. We hope some reasonable timetable will be established and we can give some better guidance at that point.

Mr. Bradley: That sounds good to me.

Mr. Swart: How much time has each of the parties used up so far and how much time do we have left? I certainly will make my remarks brief enough so that I do not take an unfair share of the time when we resume.

The Acting Chairman: Up to this point, the minister has used two and a half hours, the Liberal Party has used two hours and 15 minutes and you have used an hour and a half.

Mr. Swart: I will wind up within half an hour; I can promise that.

The Acting Chairman: The time remaining is eight hours and 47 minutes, or close to nine hours.

Mr. Swart: Then we will have eight hours left for the individual votes.

The Acting Chairman: We will adjourn at this time until next Thursday after routine proceedings.

The committee adjourned at 1 p.m.

CONTENTS

Friday, November 2, 1984

Opening statement: Mr. Swart	J-407
Adjournment	J-416

SPEAKERS IN THIS ISSUE

Bradley, J. J. (St. Catharines L)

Mitchell, R. C.; Acting Chairman (Carleton PC)

Stevenson, K. R.; Acting Chairman (Durham-York PC)

Swart, M. L. (Welland-Thorold NDP)

Williams, J. R. (Oriole PC)





Legislative Assembly of Ontario

Standing Committee on Administratrion of Justice

Estimates, Ministry of Consumer and Commercial Relations



Fourth Session, 32nd Parliament Thursday, November 8, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC



CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 8, 1984

The committee met at 4:13 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1601, ministry administration program:

Mr. Chairman: Good afternoon, ladies and gentlemen; I see a quorum. I believe we left off with the critic of the third party.

We are on vote 1601; Mr. Swart, you indicated you had approximately 30-odd minutes to go.

Mr. Swart: Yes. I doubt if I will be that long, Mr. Chairman. I had almost completed my remarks. There are a number of other items that I obviously want to dwell on, but perhaps most of them can be done appropriately when we get to the votes. However, I did want to promote with the minister the idea of having a lemon law for new automobiles, one that will protect new car owners.

The minister made some comment—and he can correct me if I am wrong; time moves on, it is a couple of weeks since he made his lead-in comments—I think he mentioned that it was not very practical. Now, I am talking about a new car lemon law. If I am wrong, then please correct me.

The minister must know that in numbers of states in the United States they have these lemon laws with regard to new motor vehicles, where a person who buys a new motor vehicle can have a 30-day period of time. If he has extensive trouble with his car during that period, he can require that it be replaced; not just repaired but replaced.

The minister may know that they have this kind of law in California and Connecticut. My colleague, the member for Etobicoke (Mr. Philip) introduced a private member's bill similar to the one in those two states. I am sure the minister is aware that other states have lemon laws—or lemon-aid acts, or whatever one wants to call them—on their statute books, but they are somewhat different from the ones in California and Connecticut.

This bill provides that if they have these major problems within 20,000 kilometres or one year, whichever comes first, and where there have been a number of attempts to repair the car and where they have had defects, the car would have

to be replaced. I suggest the minister take a good look at that act which Mr. Philip submitted to protect the purchasers of new motor vehicles and consider introducing similar legislation.

Throughout my discourse I have made the point, and I think justifiably so, that the government of Ontario has done quite a bit with regard to insurance policies, and I mentioned them, to give protection to the consumer. I think you have given a lot of protection to the consumer in laws to prevent them from being ripped off, giving them two days to reconsider contracts and all those sorts of things.

As I said before, when it comes to protecting the consumer on price, or whatever the case may be, against the major corporations, your government has been extremely lax. You simply will not intervene on the side of the consumer, whether it is in the price of milk, whether it is on insurance rates or whether it is taking a real stand on Bell Canada or Consumers' Gas rates. You have simply not assured that there is fairness in the setting of the prices.

I suggest the absence of a lemon law in the jurisdiction of Ontario is part of that same philosophy—that we provide insurance and these sorts of things, but when it comes to intervention on behalf of the little consumer against a major corporation, you are absent for even giving a fair shake to the consumer, to say nothing about being on the consumer's side.

I had expected that Mr. Renwick would be here during the estimates when we were dealing with the financial corporations. It appears now he will not be, although I am told he is up and around and really in very good shape. However, he is still in the hospital, or was as of yesterday, so I think it is very doubtful that he will be back for these estimates, and perhaps not for the fall session.

I would like the minister to comment on the trust company matter with particular reference to issues that were raised in an editorial in the Toronto Star just a couple of weeks ago. I am sure you will have seen that, Minister. The lead editorial was entitled, "Still Waiting On Trust Companies." Although I do not intend to read this whole editorial, part way through you will find these words:

"While the courts may decide the question of compensation, there remain unanswered many public policy questions.

"How can a government seize someone's assets, without compensation, and perhaps ultimately sell them without proving in open court that there has been any wrongdoing?

"And having done it once, what is to prevent it being done again?

"Since the Ontario government regulates and supervises trust companies, how did it allow the Crown affair to reach a point where seizure seemed the only remedy?

"Are the laws governing trust companies too lax, or too feebly enforced?

"Should a single individual be permitted to own 100 per cent of a trust company's shares? No one person is allowed to own more than 10 per cent of a bank's shares.

"Should a trust company be allowed to make loans that will even indirectly benefit its own officers?"

4:20 p.m.

One question that is not asked, but that I would like to ask, and it has been raised by our party on many occasions, is: Should we really know who are the owners of the trust companies, and indeed of other companies? Perhaps the minister will make some comment on that in his answers, at least when we get to that part of our agenda.

I also want to mention very briefly, because we will be going into it more fully later on, the issue of rent review and the tremendous amount of time it has taken to get a report when it was obvious to the minister, and to anyone at all familiar with the rent review system and the hearings that were taking place, there were some matters, such as illegal rents, which needed immediate action.

Here we are two years down the road and I suppose, with the likely sequence of events that will take place—this House adjourning some time early in December, the leadership convention, the House probably coming back and meeting under the new Premier for a short time and then the House being dissolved and an election—we are looking at many more months, probably another year, before we deal with these very important issues.

There is an urgency about some of these matters and I ask the minister, "Why do you not proceed now?" Some of the matters are complex and some of them are simple.

I know what you said in the House in answer to questions, that if you proceed with certain parts and not with the others, they ask, "Why do you

not bring in a comprehensive bill?" If you do not proceed, they ask, "Why do you not deal with the issues that ought to be dealt with?"

I am afraid, after this length of time, I would come down on the side of liking to see you bring in some legislation to deal with two or three of these very critical matters, such as the question of illegal rents and the central registry. It seems to me that is a perfectly obvious solution, but I am not at all sure the solution is to go back only three years for the registration, as is proposed in the report.

I think we should go back much further than that, because of the number of cases I have handled before the rent review board. We have come upon illegal rents going right back to the time rent review was enacted. I am aware of all the problems, not only of searching out the information to see if there are illegal rents, but also, if you do find that out, of reimbursing many of the people who may have moved on two or three times since then. I am aware of all that.

Having said that, it seems to me, even if that situation goes as far back as 1976, if people who have paid illegal rents are still there they should have the right to recover those illegal rents. You will tell me, of course, that if they make application to the rent review board there is a probability they will get the money back, but I have been through some of these and it is impossible to provide the kind of evidence that has to be produced for some of the rent review officers, in view of the fact they will do no searching on their own.

I am not sure whether I mentioned this here last year, but I had one case reported to me of a small apartment building of about 12 units where illegal rents were charged. Some of the occupants had a neighbour tell them this.

There was no way to get into the books. The rent review officer refused to require the landlord to bring his books to show whether there had been overcharging. The onus was on myself and the tenant to provide the proof. I spent considerable time searching out people who had moved two or three times and then getting affidavits from them about the rent they paid when they moved in after someone had left. We had to take that sequence.

After we did this for three occupants, the rent review officer did order the landlord to produce his books to show the rent. It was proved that there had been illegal rent increases for practically all those apartments. However, usually it is almost impossible to prove. Therefore, there is a need for a central registry, and for it to go back

much further than the three years which is

proposed.

Another item I want to touch on briefly is the matter of the relationship between the government and the credit union movement. I want to give credit where credit is due. The minister moved quite rapidly on the matter when the credit unions were in some real danger. I mean the danger of perhaps having a run on the credit unions; not a collapse, although that could have taken place. He moved in and brought forward legislation that, if I remember correctly, all parties supported. It prevented what could have been a very serious situation.

However, I would like to ask the minister why he did not change the legislation to permit such organizations as power corporations to invest in credit unions and have term deposits. It is my understanding that is not possible at the present

time.

Hon. Mr. Elgie: Power corporations?

Mr. Swart: Yes; hydroelectric power commissions. Municipalities have been given that power but, as I understand it, not hydroelectric power commissions. I also understand that the government does not use credit unions for deposits. I wonder why the government has discriminated against them, at least in those two respects.

I also hope the minister will cover in a bit more detail at the appropriate time answers to my questions on the present position in the changes to the pension legislation. He lauded the protection that is there now, the guarantee fund.

With its application to CCM, the minister is aware that people under 45 got back only something like 39 per cent of the money they had paid in at CCM. There was protection for the older workers.

That does not seem to me to be a very fair system, especially when, and rightly so, some fault can be laid against the government for not policing the legislation much better than was done in the case of CCM and in the case of many other pension funds as well.

4:30 p.m.

I have a report that states there were 200 companies in default on submitting their returns as required by law. I would like to ask the minister if that situation still exists and whether it has been tightened up.

The whole pension system has been unfair to the consumer for a long time and the minister has not taken quick or even reasonable action to correct that. The Haley commission made its report in 1980. The select committee made its report in 1982. We will soon be going into 1985 and no substantive changes have been made in legislation which I think everyone realizes is wholly inadequate to provide a fair pension system.

Of course, there are questions of portability, indexing, providing information to employees which it is impossible for them to get at the present time, of pensions themselves, and widows' pensions.

I have a report here which says really only Saskatchewan and Manitoba have up-to-date pension plans. I know there is an attempt to get a relatively uniform, certainly an integrated system across the whole nation. I cannot argue with that objective, but the process seems to go on indefinitely.

I admit it is not the responsibility of the minister. In fact it is the Treasurer who has the responsibility of bringing in the amending legislation and carrying through with negotiations with the other provinces and the federal government. However, I also know it is a matter of interest to you because you administer these plans and I would hope you would be able to tell us that legislation will be introduced in the very near future; that there is an agreement with regard to amendments to the pension legislation, along the lines of the recommendations of the Haley commission report, most of which were endorsed by the select committee.

I am in ignorance about this, but I do not know whether the new government in Ottawa has given any indication of its commitment towards the changes that were introduced by the previous government.

With that, I will conclude my remarks, except perhaps to repeat what I said at the beginning, and that is that when it comes to price protection and assuring that the consumer in this province gets a break equal to that given the major corporations, whether it is in administered prices or otherwise, when we deal with those issues, Ontario is far behind many of the other provinces of this nation and many of the states of the United States.

As I said to the minister's parliamentary assistant, Mr. Williams, the other day when you were not here, it seems to me there are many things you could initiate, such as the appointment of a public advocate. You could accomplish them without any real compromise whatsoever in sort of the Conservative philosophy, to assure there is someone who represents the consumers of this province. It does not contradict the free enter-

prise system per se. It really just ensures it works better.

In the US, perhaps two thirds of the states now have implemented legislation to provide for a public advocate of one kind or another, and all of that has been done within the last 10 years. Perhaps it is time for the government of this province, even with its Conservative philosophy, to follow the lead of those states in the United States and to give some meaningful protection regarding prices to the consumer as against the major corporations.

With that, I will conclude.

Mr. Chairman: The minister has a few responses to the critics. You can begin now.

Hon. Mr. Elgie: Mr. Chairman, the member for Huron-Bruce (Mr. Elston) started out by asking about the number of studies that were under way in the ministry, what subjects were under study, what draft reports we might have, what is under review and so forth.

It is extremely difficult to answer this series of questions, as they appear to cover the entire planning process of the ministry. Many programs, if not all, have studies under way on the various aspects of program policy, legislation or administration. Some of these may result in reports that become public documents; others may end up at a policy review session where it is decided that no further work should be done on them.

Many of the references that I or others make to studies and reviews contained in my opening remarks relate to internal efforts being made by the ministry's programs to upgrade and improve their services to facilitate higher levels of consumer service.

With respect to formal committee reports and consultant reviews, the following are examples of the kinds of studies that are in process. As you know, the Thom commission report, phase I, has been tabled. We are now awaiting comments of the advisory committee on the Personal Property Security Act, which should lead to legislation, barring some new sort of comment that comes back from the public again. We have had under way an organizational review internally of the financial institutions' position. As you know, last June I set up a task force on financial institutions, which may or may not have legislative implications. I just do not know that.

These represent initiatives involving individuals outside the local staff of the branch. Other studies mentioned in my address are internal examinations of, for instance, the possibility of amendments to the Condominium Act, which is

still under way, and the systems feasibility studies in the companies branch. These are two examples of internal ministry studies that are under way.

During the opening statement of last year's estimates you mentioned that I had referred to several legislative initiatives and you wondered what happened to them. The simple fact that a program was mentioned last year and again this year does not mean there has been any delay. I can assure you that, for example, proposed changes to the Loan and Trust Corporations Act have been under almost daily pursuit.

It is a matter that is not without controversy, particularly now with one of the other provinces in this country taking a direction that is entirely different from the one we had proposed in our white paper. As I mentioned in my estimates speech, we have struck a drafting committee to develop a new Loan and Trust Corporations Act, with—and perhaps it is too ambitious—a goal of December for a bill for first reading.

We are attempting to obtain as much information as possible before presenting a final bill for debate, and we have endeavoured over the months to liaise with every province in this country and, indeed, with the federal government as well as with interested industry groups and the bar association. They have all been involved in it, so it has been an ongoing program.

Changes in cemeteries legislation, which you asked about, have not been brought forward, as the branch wished to review the concerns of the Ontario Association of Cemeteries. We are also working closely with representatives of native Indians in order to accommodate their concerns about an act that has historically viewed cemeteries from a non-Indian point of view, something that I hope we can change. We are aiming at 1985 for introduction of a new act in that area.

You referred to propane regulations. In fact, those changes have been made and will become effective this year.

Mr. Elston: There is a recent release on that, if I am not mistaken.

4:40 p.m.

Hon. Mr. Elgie: Yes, I think the regulations were passed in early September and start on January I unless there is some reason to postpone it. As you know, the propane inspection program, with the need to have a seal on your vehicle, will be put in place. We hope this whole program of requiring the inspection of vehicles and the replacement of tubing at certain staged periods of time will put propane in the position it should be in, that it is as safe as any other fuel.

That does not mean that at the minute we are aware of any risk to the public, but I think the public needs to have that certainty.

Mr. Elston: I agree. I think I can recall your first responses to questions raised by Mr. Boudria in the Legislative Assembly, which might bear some review in the light of the fact you have brought in the new regulations. Mr. Boudria raised the questions of improper installation and of the problems of wearing of hoses and things. I do think your response at that time was one of concern for the problems being raised by Mr. Boudria, but I am pleased to see you are upgrading that installation.

Hon. Mr. Elgie: I know we all like to take credit for it but it was after not many months in this ministry that I commissioned some scientific studies on tubing and normal permeation ratios through tubing and connections and so forth. That is an issue about which the public has to have some certainty. It is through our effort, in conjunction with the Ministry of Transportation and Communications, we now have this program in place, including the issue of who does the installing.

I think you asked about that particularly, and I want to let you know that the new regulations that came into effect on September 1 require that all installers be licensed automobile mechanics or have similar qualifications. In other words, all installers must be motor mechanics. In the case of inspectors, they must all be licensed automechanics.

The Elevating Devices Act to which you referred is always under review. We are constantly amending or strengthening our regulations to upgrade safety standards and accessibility to elevators.

For example, just recently we made a modification to the Canada Standards Association B-44 code to make elevator doors more secure when they are inadvertently struck when closed. We went through a testing program to see whether the existing pound per square inch test was adequate in the light of some incidents that had happened. We discussed it with the CSA and other groups and came to the conclusion the standard needed to be changed, and it was. As I mentioned, we are waiting for the final report on the PPSR.

The Vital Statistics Act and the Change of Name Act are currently being drafted. I hope to be able to introduce them before the end of this fiscal year. Although it may seem simple—

Mr. Elston: Did you say "fiscal year"?

Hon. Mr. Elgie: Certainly not this calendar year, because there have been some drafting problems. Every time you take one step forward, somebody says you should be taking a side step to cover another issue because there is a human rights issue overlooked and so forth. It is not always straightforward, but it is not something that is being sidelined. It is being actively pursued.

You asked about a letter from Mr. Boudria, the former Liberal critic, concerning a number of ministry operations. Those questions were essentially the same as those set out in a letter he sent to us last year. It was satisfactory to him last year that we dealt with that in estimates by providing him with a detailed reply. I am happy to do so again. I have it all here. I will give it to the clerk so he can forward it to all interested members of the committee.

You were anxious to know about the status of the litigation relative to Mr. Rosenberg and the preferred shareholders. I will have to refer to that when we get to the particular vote and item, if I may, because we have not been able to get all the information together. As you know, there are two main actions going on with respect to the trust companies, one that brought about the receivership in the Cadillac Fairview case and the other that brought about the receivership in the Kilderkin properties.

Then there are numerous other actions by trust companies that are being initiated, in the case of Seaway by Seaway and, in the case of other situations the Canada Deposit Insurance Corp. is involved. There are numerous suits against myself and the government. Mr. Player, Mr. Markle and Mr. Rosenberg have suits against us. One action, which the preferred shareholders joined in, was dealt with by the Supreme Court about a year ago and the preferred shareholders, as of last summer, have commenced action against the government and myself.

I cannot tell you the exact state of all those actions but I will endeavour to get that information. It will take some time to gather it together. In the two main actions I referred to, there have been examinations of witnesses under way now for several months—at least over a year. Sometimes answers are not given and one needs to get a court order to bring them back. That process has been under way for some months.

Mr. Robins and anybody else who is necessary will be here to discuss any matter you wish to know about the credit unions. With respect to legal and accounting costs for the trust company affair, I am told that for 1982-83 they

were \$6,460,196; for 1983-84 they were \$11,320,739; and for 1984-85 up to September 30, 1984, they came to \$1,376,400.

We are actively pursuing recovery possibilities for those cost outlays. Staff of the financial institutions division is involved in determining the methods and directions our pursuit of cost recovery might take. We are reasonably certain that many of the costs, if not the majority of them, will be recoverable. We feel we will be able to recover some costs from the litigation that is under way, from insurance coverage that some of the parties have, from the Canada Deposit Insurance Corp. with respect to its portion of costs, and the remainder through a pro rata levy against the trust companies.

You asked for details concerning the increase in service expenditures of financial institutions. In 1981-82, the service costs were \$165,120; in 1982-83 they were \$6,633,985; in 1983-84, as I mentioned, they were \$11,901,696.

How did the ministry obtain increased funding in those years and, finally, how can we be sure that in 1984-85 the estimate of \$4,307,000.60 is fairly accurate? To the extent that the increases in the services section of the financial institutions division are directly related to the trust companies' costs, you will see they fit in fairly well with the figures I gave you beforehand.

You will note from my response to that previous question that the bulk of the service cost is related to trust company matters. In fact, only \$173,789 for 1982-83 and \$190,624 for 1983-84 were directly related to branch service costs. In 1983-84, \$390,427 was allocated for what I will call the Great Lakes surety rehabilitation.

If you wish, I can ask my deputy to go over the administrative process by which those budgets were struck and how the approvals were amended from time to time. If you wish him to do that, he can do that now or he can do that during the vote and item, whatever you wish.

Mr. Elston: Perhaps we could get to that in the vote. I think it would save some time. It would be better for us, if that will be all right.

Hon. Mr. Elgie: Okay. You asked what the role of the ministry would be with respect to the trust companies and the sale of the Cadillac Fairview apartments. I guess it could be a lengthy answer, but let me start out by saying this.

As of June, Seaway, which had been taken over by Midland Bank because it was in control of the shares, was taken over by the creditor. In other words, CDIC called its loans, terminated Seaway Trust and paid off all the depositors. CDIC, having taken control as the secured

creditor, is there, but it has appointed a liquidator through the courts, Mr. Bruce Robertson. Therefore, there is a liquidator appointed by the court to deal with any of the matters related to Seaway.

Interjection.

4:50 p.m.

Hon. Mr. Elgie: As you know, they have a half interest in the Cadillac Fairview properties.

Crown and Greymac are two slightly different situations in that Greymac is being handled on an agency basis by Standard Trust. The registrar has some obligations there with respect to the disposition of whatever interest that company has in the Cadillac Fairview properties, but you will recall the specific act relating to Crown imposed even greater obligations on the registrar in the handling of those moneys related to the Cadillac Fairview properties. He also has to act in a prudent and businesslike fashion.

He is still in possession and control of Crown Trust and of Greymac, but Greymac is being handled on an agency basis and Central Trust purchased the assets of Crown under legislation that we passed in this Legislature.

Having said all that, it would be no surprise to you to know there is a major secured creditor in all this, the Canada Deposit Insurance Corp., which at any time it chooses can call its loan and indeed take over the whole matter. It has not done so.

The assets then, the Cadillac Fairview properties, are under the management and control of a receiver and of a liquidator or before the court. Last week or the week before, the court directed the receiver and the liquidator to return with a marketing proposal with respect to all those properties and in the process to consult with CDIC about whatever marketing proposals it has.

The role of the registrar then, still being in possession, is the role of someone who is free to comment and make suggestions to the court with respect to whatever marketing proposals there are, just as anyone with standing before the court on the issue can make representations about any marketing proposal, including Mr. Rosenberg, who commenced an action in August to require the court to order the receiver to get on with the frozen properties.

There are many people who can have comments about a court-ordered direction to the receiver and the liquidator to come back with a proposal for marketing disposition of the property.

I do not know whether that answers your question fully, but if it does not, I will respond at some other time.

You suggested this is a buyer-beware province and we are not doing enough to educate our consumers. We certainly think we are doing a lot; we have put a lot of time and energy into educating consumers through television programs, through kits we prepare, through leaflets, through consumer columns we distribute throughout the country, and through our information offices that offer services in all languages.

I think we do endeavour to educate consumers in many ways. When others come to this province and comment, they think we are doing much better than they are, but I do not think that can always give us the assurance each consumer understands each issue. With respect to our capacity and our willingness to do it, we certainly

make every effort possible.

In addition, you must keep in mind, as Mr. Swart mentioned, that Ontario has gone into other areas to try to protect consumers where they may not be able to protect themselves, no matter what.

I refer to things such as the home warranty program, which I believe since 1976 has paid out some \$16 million to home owners. We are one of only three provinces that has a travel compensation fund; it has paid out more than \$8 million to travellers. We have passed legislation recently with respect to a motor vehicle compensation fund; that should be near at hand to provide a safety net for purchasers of cars who might otherwise lose their down payments.

Compensation funds in general continue to form an important part of our perspective as we look forward to any other legislative changes.

I would say in addition, and this goes back to your first question about studies, that we were also instrumental in encouraging the Ontario Law Reform Commission—chaired by someone whose name I cannot recall at the moment—to grapple with issues that are troubling us.

Mr. Elston: There was a vacancy for some five months before they found a suitable candidate. Perhaps it is in that sense you were not able to recall the previous chairman.

Hon. Mr. Elgie: I knew him very well.

Mr. Elston: I think for the benefit of the folks, though, my former colleague Mr. Breithaupt is now chairman.

Hon. Mr. Elgie: I have no hesitation whatever in saying he is a capable man who will do an excellent job.

Mr. Elston: Very.

Hon. Mr. Elgie: Actually, I thought he should have been your leader, but I was not there to vote for him.

Mr. Epp: He should have been in the government.

Hon. Mr. Elgie: Anyway, the Ontario Law Reform Commission has agreed to grapple with issues that have been on our minds and to give us its thoughts on them, issues such as time-sharing and long-term leases with a prepaid element, which we bumped into on a problem particularly in relation to retirement housing. It has advised us that its in-depth study of time-sharing should be ready for us in 1985, and it is proceeding as well with the other issues.

I am sure members are aware that there are a vast number of prepaid services that are not considered a problem—for example, utility prepayments, insurance prepayments, subscriptions to magazines and others—but other prepayment issues are of concern, particularly long-term prepayment issues, and this is one of the reasons we have asked the law reform commission to look at this.

Ontario has, I think in a very logical fashion, already taken care of or is in the process of taking care of many major problems that consumers encounter with respect to prepaid services, and the doctrine of caveat emptor does not always apply.

You asked whether the tenants of the Cadillac Fairview apartment buildings are going to be faced with a huge rent increase as a result of selling plans recently discussed in the paper, which I have recently discussed here.

The answer to that, as I said in my opening remarks and in the Legislature, is that the Residential Complexes Financing Costs Restraint Act will be extended once again by this Legislature. Mr. Thom recommends, among other things, that it become a permanent feature of the act. But while the government reviews Mr. Thom's proposals, I recommended to my colleagues, and they accepted, that this act be extended so the same degree of protection will be available during that period of extension, if not for ever, depending on the determination of the government's views on the final recommendation.

What is the status of the financial institutions task force and when will there be a report? It has already met with at least 50 or more groups from several sectors of the financial institutions area, and we hope it will be providing us with an interim report by the end of December, which

will also set out how it intends to proceed for the balance of the year, because it does intend to hold some public hearings on the issue. We did ask it to give us in its December report some preliminary thoughts on what it thinks are some key issues that the government may have to address in the very short-term future.

You asked whether as a result of the recent merger between Royal Trust and A. E. LePage we are seeing a marked decrease in the number of small financial institutions and whether a small number of large institutions will eventually control the market.

There have been examples of a number of financial institutions that have been taken over or merged, but on the other hand, there has not been any reduction in the number of smaller institutions that are still around or applying for incorporation. This does not mean we do not have some concerns about large mergers, but we see no evidence at the present time that there is any element of lack of competition developing in those areas.

I would have thought that your question probably also encompassed the issue of the changing direction that many of these companies are taking, particularly the merger you talked about, where we now have Trilon controlling Royal Trust and A. E. LePage and recently acquiring Fireman's Fund and London Life. Those are the very issues we have asked the task force to look at, the issues of conflict of interest, self-dealing and all of those matters.

While we are doing this, of course, you know that in Quebec they have already passed Bill 75, which allows insurance companies to get into the trust business. This has changed the investment requirements in that they no longer have to have what have traditionally been qualified investment rules that all of Canada would follow, but rather will follow a prudent-investor standard, and they have changed their conflict of interest rules a bit.

So we do have some interesting financial institution problems evolving.

5 n.m.

Mr. Elston: Is it fair to say that the principals who are seen as being behind the Royal Trust-A. E. LePage-Fireman's Fund venture are virtually sitting on the edge of providing that one-stop financial service, that all they really need is the go-ahead or whatever is required here in the province to implement it fully? I understand the holding company, which has assets in these various parts of our financial institutions, could very easily become a combination of them and

step right in on almost a moment's notice as it were.

Hon. Mr. Elgie: Evidently they have the mechanisms in place to do those things if the approval process is there. They also have the mechanism in place to deal with one another with respect to various common things they might be doing.

Mr. Elston: Then if the approval process is put in place, as you put it, it could be—

Hon. Mr. Elgie: What approval process?

Mr. Elston: You just mentioned the approval process was there; I presume there is something in terms of one-stop facilities.

Hon. Mr. Elgie: The Ontario Securities Commission has certain rules, and there are certain rules under the Insurance Act with respect to the marketing of their products, how it is to be done and so forth.

Mr. Elston: I understand that, but once the various go-aheads in those areas are given-

Hon. Mr. Elgie: If they are given.

Mr. Elston: –if they are given—it would seem to me that particular group of companies would step right in with a major advantage over other parts of the financial community.

I would think it would be very difficult, particularly for very small companies, and I am thinking now of mutual insurance companies or whatever, to deal quickly with the type of added competition you are going to see. I presume that is part of your deliberations.

Hon. Mr. Elgie: I do not think you and I perceive the problem any differently. That is why we have set up a task force that we hope can act relatively quickly, because I do have concerns about self-dealing and I do have concerns as to the long run. What may be of interest to the consumer in the short run may not be to the consumer's interest in the long run.

Mr. Elston: Maybe I could ask you to give us your concerns. I do not want to prolong the discussion here. You mentioned that you have had some concerns or at least, even though you had not seen a decrease in the number of small institutions applying for licences and things, you did say that did not mean you did not have concerns. Can you enumerate some of your concerns in a general fashion?

Hon. Mr. Elgie: I think they were pretty well enumerated in the white paper; that is, the issue of subsidiaries and affiliates and the conflict of interest problems that started to develop. Of course, the larger one gets, the larger potential there is for conflict of interest. Those are what we are wrestling with as we draft the Loan and Trust Corporations Act; those are some of the issues we asked the task force to deal with; those are some of the issues the OSC is dealing with now in its own area, in which it is holding some hearings.

Mr. Elston: How soon do you expect all these to come together?

Hon. Mr. Elgie: With regard to the OSC report, I know the present chairman would like to see a report completed some time early in the new year. I am not certain what the fate is going to be of the heralded federal task force. Whether it will ever see the light of day, I frankly do not know. I think it has shared some of its papers with our task force, but whether it is going to come up with a final report, I do not know.

Certainly I have indicated to our task force, and I have spoken on the issue on many occasions, that I see it as one about which Ontario has to develop positions as quickly as possible.

You asked why OSC fees they have not been increased and why the proposed 1982 fee increase was not implemented. Actually, I believe it was in 1981 that the then chairman published in the bulletin proposals for fee increases that were quite significant and caused quite a lot of controversy within the community.

The former minister, I think in 1982, had discussions with him about it. When I arrived on the scene we had further discussions which resulted in some increased funding and increased staffing of the commission in the summer of 1982, I believe. Of course, by then we were going into our restraint year; so the fee increases were limited to five per cent. In spite of the limitation of those fees, we were able to get increased funding for the OSC and to increase its complement of people.

You have to remember that at the time those fee proposals were put forward by the chairman, he saw the OSC—and I do not say this because I agree or disagree with it—as becoming a completely self-funding, separate institution, almost operating on whatever budget it wished. Frankly, I do not think that is a role I would accept. I do not think it is a role the government would accept, but we did agree that there needed to be increased funding. The next issue is whether the industry itself should be carrying a greater portion of the load. Those were issues we could not address during the period of administrative price control which did happen, even though some say it did not happen.

Mr. Crosbie: We will leave that as an open, debatable question.

Hon. Mr. Elgie: The next questions were the following: Does the frequent absence of the chairman from his office at the OSC to deal with new procedures and policies in the securities industry affect commission clientele and impact on turnaround time? Does the limited staff in the chairman's office impact on efficiency?

Let me say first of all that the present chairman has looked on the Ontario Securities Commission as the so-called lead commission, as all previous chairmen have done. They have tried to play a role that went beyond the bounds of Ontario. As a very strong part of his mandate, the present commissioner has tried to achieve, if not unity, at least some compatibility in the new areas being encountered. I praise him for that and find it difficult to believe that with a vice-chairman in place and two commissioners available any day to deal with any problem, and with the further increase in complement and funding granted to the commission, which we are in the process of building up, any deficiency such as you have asked about could happen.

Whether you want to talk to me about it here or privately, I would be interested to know whether there have been some complaints about it. because I have sensed that it has been working very efficiently. The commission has introduced the so-called POP, the prompt offering prospectus, which has allowed many institutions to get their prospectuses through relatively quickly. I think the chairman has been very innovative in bringing about changes to facilitate the capital markets within the province and within the country. There will always be some who are critical about whatever you do, but if there are those who feel otherwise and there is some significant criticism, I would be interested in hearing it.

You also asked, in relation to the Theatres Act, in determining what is pornography and in view of the recent court rulings concerning the board's power, would the minister consider recommending an all-party committee be formed to draft standards for the Board of Censors?

As I said in the House, the role of government is to govern and prepare regulations. I have given this a lot of thought and because I think it is such an important issue, I am prepared to have the regulations we will be proposing brought to this committee for the committee to review and comment on to government. The government may then do what it wishes with those comments,

but it is important. That is the role of government.

They have to go to the regulations committee and then through the regular process, but I am quite prepared to share the proposed regulations for discussion and comment with my colleagues here in the committee when we finally get to the Theatres Act and get it to the committee level.

Mr. Elston: That will be next year by the looks of things.

Hon. Mr. Elgie: No. I heard from Mel that this bill, which is there before the House today, is going to pass today. You did say that, did you not?

Mr. Swart: I think-

Hon. Mr. Elgie: You did not say that?

Mr. Swart: No. I think maybe you were listening to the Minister of Education (Miss Stephenson).

Hon. Mr. Elgie: Oh, I see.

Mr. Elston: Because they delayed the vote on first reading by 10 minutes, I think it means they really want to prolong this.

Hon. Mr. Elgie: Maybe they have something else in mind.

Mr. Swart: I would just like to get your timing on that.

Hon. Mr. Elgie: The Theatres Act?

Mr. Swart: Yes.

5:10 p.m.

Hon. Mr. Elgie: I am told it is going to go for debate on Tuesday night. I do not imagine we will get through it in one evening, but I would hope for two days of debate.

Mr. Swart: Were you suggesting that those regulations would be brought to this committee after the legislation is passed?

Hon. Mr. Elgie: No. You want the legislation, I presume; it is up to you. However, I would be pleased to share them, if the bill comes here, at the time of committee hearings.

Mr. Swart: You will refer the bill back at the time of the committee hearings?

Hon. Mr. Elgie: Or if it is a committee of the whole, whichever is determined as the appropriate way to go. I will be glad to share the regulations with you.

Mr. Elston: Your regulations are not available at this time?

Hon. Mr. Elgie: No.

Mr. Elston: Presumably, you are waiting until you get the second reading finished, with

study being done in the committee stage, and then you will bring the regulations in.

Hon. Mr. Elgie: Yes. I will be glad to share them with you for your comments.

You asked about the Extra-Provincial Corporations Act and whether I would comment on the matter of the act being drafted to get prominent Tories out of difficulty. I am not sure what you mean by that. I looked through the list of people, and I do not know a soul on it. If you have a specific complaint, I would be glad to hear it, but I do not know of any Tory—

Mr. Swart: You should check that with four of your colleagues. I am sure they can help you.

Hon. Mr. Elgie: I would be pleased to read for the record a letter that was sent to your leader on this issue. Otherwise, I can refer you to the letter, which explains it in detail, whichever you wish. Would it be acceptable if we had a copy of this letter distributed to each member of the committee so that, rather than waste time reading it, I can simply provide a copy to everybody? That would be the response I would give you.

You asked me whether I could comment on the possibility of a rent registry for Ontario and why funding is not included in the estimates for it. Also, you asked if I would please inform the committee on the funding and personnel involved in dealing with a review of the Thom commission report.

Our estimates for 1984-85 were settled last fall, almost a year before the Thom commission recommended the establishment of a rent registry. Any recommendation we have now will be going forward in our budget for next year. As I have said, the government has already committed itself to the introduction of a rent registry.

Going back to the question of how we go about these fundings when they are not in our existing budget, the deputy minister has just said that he will be pleased to explain when we go through that later.

I was also asked whether I would please advise on the funding and personnel involved in dealing with the review of the Thom commission report. Who is in it? We are dealing mainly with in-house and seconded personnel. We have two people from the Ministry of Treasury and Economics, one from the Ministry of Municipal Affairs and Housing, and one or two from our own ministry.

Mr. Crosbie: Yes. They will be called the Residential Tenancy Commission.

Hon. Mr. Elgie: There are two people from our own ministry, but the RTC has a representa-

tive there primarily to advise on technical matters; in other words, the feasibility of some of the recognitions, not the policy aspects.

So it is the Ministry of Consumer and Commercial Relations, the Ministry of Treasury and Economics and the Ministry of Municipal Affairs and Housing, all seconded people, and they are the working group that is now reviewing the Thom commission report for presentation to me and discussion.

Mr. Elston: Is there anybody out of the Attorney General's office?

Hon. Mr. Elgie: Yes, I am sorry; there is someone from the Attorney General's office too, from the drafting point of view. I forgot about that. I forget his name.

Interjection: That serves a dual purpose, to include Steve Fram.

Hon. Mr. Elgie: Steve Fram, who was one of the original draftsmen of the bill and who is with the Attorney General's office, is also on the review board.

Mr. Bradley asked me about the need for the protection of good tenants with respect to having to cover the cost of bad tenants and the damage they cause. I wish I knew the answer to that, because we all suspect there are some good ones and some bad ones. I hope all tenants do not get blamed for the damage and pilfering that goes on in buildings. I am sure there are others who cause it as well. I see no remedy for that other than through the Landlord and Tenant Act or through an action by the owner in the event he can identify the perpetrator. I cannot think of any other way you can protect good tenants through legislation.

Mr. Elston: It is a good way to get into the consulting business, to come up with the answer to that.

Hon. Mr. Elgie: You have your new consulting business; set up that firm.

Mr. Swart: You may want to comment on the new private rent registries where they investigate tenants and delve extensively into their personal lives. I have some questions about the appropriateness of this and perhaps even the legality of it.

Hon. Mr. Elgie: We can get into that discussion at the appropriate time. Here we have Mr. Bradley concerned about protecting the good tenants from the bad and you are concerned that no one find out who might be a good or bad tenant.

It is a difficult issue of privacy. I understand that. I do not know what the answer to it is.

Are you aware of it? Do we have any of these in the city?

Mr. Crosbie: I recall one was supposed to be coming in.

Hon. Mr. Elgie: It did not arrive?

Mr. Crosbie: It would have to be registered under our legislation. We have certain consumer protection rules relating to such organizations.

Mr. Swart: There was one in Goderich. I think they called it a landlord protective association.

Hon. Mr. Elgie: I think the prospective tenant has to be notified about it.

Mr. Swart: That is right.

Mr. Crosbie: There is an opportunity to examine the material on the file.

Hon. Mr. Elgie: There has to an opportunity to examine the material on file with respect to the prospective tenant as well.

Mr. Bradley questioned the propriety of tenants being responsible to prove a landlord was guilty of a violation. While both Mr. Thom and the Thom commission are desirous of having tenant input and have said so, I am sure they wish to avoid situations where unsupported allegations are made. We therefore believe there should be some onus on the tenant to establish there has been a violation if that is the claim being made.

You will recall one of the Thom commission recommendations. It is that the government consider the commission actively investigate cases of alleged failure to obey their rent review orders throughout the province and lay prosecutions when the circumstances warrant. It also recommended a greater number of charges and more active enforcement with respect to the legislation.

I would like to comment that there has been much more active enforcement of orders by the commission. In the past year some 25 investigations were undertaken and something in the neighbourhood of eight or 10 charges laid. I am not sure how many convictions were achieved but there were at least four or five. Others are still pending.

Mr. Bradley questioned the liquor policy of the government in general. He was fairly satisfied with beer at sporting events but was worried that the high cost of alcohol in Ontario might encourage smuggling across the border. He suggested that flexible hours at border establishments be established.

Mr. Elston: "Might encourage" did you say?

Hon. Mr. Elgie: "Was encouraging smuggling in border areas and suggested that flexible hours in border establishments be considered."

Nothing is going to change the fact there is a different philosophy about the distribution and marketing of alcoholic beverages between the United States and Canada. This government and this province have always looked on it as a passive activity that is carried out and it does not get involved personally in the marketing of a product. I do not see there is going to be any change in that.

Similarly, we have also viewed it as a revenue source and that contributes to the cost of alcoholic beverages. There are those who say the very slight decline in consumption of alcoholic beverages occurring in this country is due not to that but to other factors such as an individual concern about drinking and driving. I do not see any change taking place in that.

I would think setting up flexible hours in different communities would be setting up a discriminatory process with regard to neighbouring communities. It would travel all across the province: "Why not me, too? How come him?" Frankly, I just do not think that situation would work.

5:20 p.m.

If the member is suggesting that we should have later drinking hours, those are matters that are always under review. I must confess, we have not had a great many complaints about the closing hours, unless it is in relation to a border city where people tend to go across the border to drink later at night.

Mr. Chairman: Might Mr. Epp have a supplementary on this?

Hon. Mr. Elgie: Sure.

Mr. Epp: I received a letter yesterday from a constituent who is concerned about the alcohol that is being consumed in the province and this country, as all of us are. He suggested that the amount of tax the province receives would be reduced if the amount of alcohol in beer were reduced.

He particularly referred to the Select beer that Labatt's is coming out with and said the amount of alcohol in that beer is considerably less than in other beers. Therefore, people who drink that beer should get a break on their taxes. I have forgotten exactly how much he was suggesting but that is not important. The important point was to give incentives to people to buy the beer with less alcohol in it.

You may have had that suggestion made to you before. Would you consider something such as that?

Hon. Mr. Elgie: Yes, it is a suggestion that is made very frequently. Of course, the brewers say it costs them just as much to manufacture a bottle of lower alcohol beer as it does the higher alcohol beer. There is no justification for any change or differential in the price.

Mr. Elston: He is talking about taxes levied by your charges.

Hon. Mr. Elgie: What he is suggesting is that there be a lower tax on low-alcohol-content beverages. Mr. Crosbie is just worried about the guy who puts an ounce and a half in a glass, but his glass is this huge.

Mr. Elston: But he is buying the pure stuff; he is buying the product. What we are talking about is a tax on the product before it is ready for—

Hon. Mr. Elgie: That is a suggestion I will be pleased to forward to the Treasurer (Mr. Grossman) for his consideration.

Mr. Elston: If he is going to balance the budget he probably is not going to do it with a tax program like that.

Mr. Epp: It would go further with the Treasurer if you were to make recommendations on it, if you would support something like that. It is something seriously to consider.

Hon. Mr. Elgie: I would be prepared to discuss it with the Treasurer. Discussion usually involves hearing points of view on things and not going in with fixed positions.

I know you do not like doing that. You like to have a firm, decisive opinion on every issue, like the protection and preservation of private property and that no one be allowed to intrude on one's right to deal with one's property.

Mr. Epp: We missed you at the reception today. I heard you were going to come with a whole entourage.

Hon. Mr. Elgie: Was your leader there? That is what I want to know.

Mr. Epp: No, he was not there today. He is most cognizant of the resolution I have put forth and he wonders what your stand on it is.

Mr. Chairman: He will be in the House.

Hon. Mr. Elgie: We will all be in the House, that is right.

Mr. Chairman: The leader will be in the house.

Hon. Mr. Elgie: Just to shorten things a bit, Mr. Bradley asked about educational efforts

aimed at discouraging alcohol consumption. I guess we could pay some credit to the industry itself which has run some campaigns. One of the brewers ran billboards that said, "It is him or it is her"—I cannot recall how the ad went—trying to discourage drinking and driving.

I know the Attorney General (Mr. McMurtry) chairs the Premier's interministry task force on drinking and driving, a group which discusses countermeasures to drinking and driving. They are developing programs throughout the province.

In our own little way we now trouble purchasers of alcohol with the label on the bag so the whole world knows they have been to the liquor store. It is funny, 15 years ago when they tried that—

Mr. Swart: That is a status symbol. That does not deter anything.

Hon. Mr. Elgie: It is interesting though; it is fascinating. When I first talked to them about this they said: "We are very careful about that. We tried that 15 years ago and we were just flooded with petitions saying that the individual did not want to be known as someone who had been to the liquor store to buy a bottle of booze," but there has been very little complaint about it this time.

Again Mr. Bradley expressed, as he did in the House the other day, his concerns about the viability of the wine industry. It is a concern we all have.

Whatever we do, it is pretty clear that we have to do it within the confines of the General Agreement on Tariffs and Trade and within the confines of the retaliatory power that the President has, almost without reference to anybody else. All it requires is a Senate hearing and they can take action in any way they wish. That was the threat that was there a year and a half ago with respect to our handling charge.

Mr. Elston: It is nice to have a President across the border who does not fear waving that big club, is it not?

Hon. Mr. Elgie: Yes, it has quite an influence since we export a fair number of other distilled products across the border on a volume rather than an alcohol-content basis. They would have been in trouble.

Mr. Swart: A lot of our beer-

Hon. Mr. Elgie: Yes, that too. Whatever we do, it has to be done within the framework of the General Agreement on Tariffs and Trade. We already had the European Economic Commission just visiting Ottawa with a complaint about

Ontario's practices particularly. I do not know whether that will go to a hearing or not.

We are aware of all those things and also of the need to do whatever we can for the wine industry, which is very important in the Niagara Peninsula. We are continuing to work in conjunction with other ministers on both short-term and long-term solutions for the wine industry and particularly the grape-growing problems they have. Now that they have improved the quality of their grapes, we have to make sure there is a market for them.

Mr. Elston: This year, the quantity has been a problem, too.

Hon. Mr. Elgie: Yes. As you know, the Wine Content Act is still in existence, so apparently there remains a need for some blending to take place, or they would not have requested it be extended for another two years. One would hope that we will soon have a yield of grapes that will allow us to bring that act to an end. That might create other problems, too, because a lot of that blending wine comes from California.

Mr. Swart: I am not sure that is going to happen in the very near future because there are types of grapes that apparently improve the wine, such as the California grape, that we cannot grow here.

Mr. Bradley also mentioned Mr. Boudria's private member's bill, which would have permitted wine to be sold in the grocery stores. Are you going to comment on that?

Hon. Mr. Elgie: We are marching along. We are coming to that. We have been through the issue at great length in the Legislature. I would really be happy to get into another debate on it, but fundamentally I see no way that we can comply.

If we chose to put wine into grocery stores, I think it is discriminatory to put it only into one type. There are many delicatessens and small mom-and-pop shops that would not be classified as a small grocery stores, and they would feel discriminated against. The larger stores would also feel it was discriminatory.

Beyond that, frankly, can you explain to me how you could put only Ontario or Canadian wine in grocery stores? To my mind it would be such a clear contravention of GATT there would be no way in the world one could avoid a confrontation on that issue. That is assuming people wish to do it.

For a number of other reasons that were outlined in the debate, this government really does not have an interest at this time in having wine dispensed in this way. We are quite satisfied with the present methods. We are

serving the public well and do not need to get into the other problems that might flow from having it distributed more broadly. Particularly, we are not getting into the business of trying to market more alcoholic beverages, because it would not end with wine.

Mr. Elston: On the point of discrimination, I guess you do discriminate against individual communities every day of the year when you say they are not far enough away from a particular distribution point where you provide outlets for not only wine but other alcoholic beverages.

Hon. Mr. Elgie: I do not look on that as discrimination.

Mr. Elston: It would seem to me you are discriminating by saying one is—

Hon. Mr. Elgie: The fact that I have to drive farther to the nearest store than my neighbour 10 blocks away does not make me feel that I am being—

Mr. Elston: However, if you have an application from a community, you say, "No, because you are within five miles you cannot have an outlet," but, "Because you are 12 or 15 miles away, you get one."

Hon. Mr. Elgie: The criteria really are broader than that. They involve potential sales and a number of other things I am sure the board will be glad to discuss with you. It is not an effort to be discriminatory, it is an effort to be practical. 5:30 p.m.

Mr. Chairman: Mr. Elston, there was a time when some small towns did not want it and, 10 years later, some other council members did want it and it went to another little town. That is also why we have some of the proximity problems. I recall running into that situation a number of years ago.

Mr. Swart: The minister made the comment they do not feel they should be in the business of promoting more sales of alcoholic beverages. If we look at things realistically, there cannot be any disagreement on that.

Have you done any investigation or study, at least since the bill was submitted, to indicate whether selling wine in a grocery store increases consumption in the jurisdiction in which it is sold?

I tried to dig into this a bit while that debate was taking place and the information provided to me, including information from Quebec, stated the consumption of alcoholic beverages was not increased.

Hon. Mr. Elgie: You know why that was, do you not? The sale of other alcoholic beverages from their liquor stores dropped precipitately.

Mr. Swart: If that means it is not increasing the consumption of alcoholic beverages, it increases the consumption of wine which, generally speaking, has a lower alcohol content than many of the hard drinks.

Hon. Mr. Elgie: That is what I used to believe too until I put an ounce and a half in a glass and filled it with mix and I got the same alcohol content as a glass of wine. So there really is not that much difference.

In any event, it is not something we propose to get into at the present time.

Mr. Swart: But have you done that study? That is what I am asking.

Hon. Mr. Elgie: No, not that I am aware of. Are you aware of any studies like that?

Mr. Swart: It seems to me it would be worth while having that type of study.

Hon. Mr. Elgie: If you were contemplating it, but you then would have to decide whether you want to get into the distribution of beer in grocery stores as well. Then you would get into the issue of what other kinds of beer—

Mr. Chairman: Near beer.

Hon Mr. Elgie: —what kinds of imported beer might then have access.

I think it is a very complicated issue. I am sure you all understand that, for those reasons, we are not interested in getting into the distribution of wine or beer in grocery stores.

Mr. Swart: I realize the whole matter is controversial, but if there were a study which showed selling it in grocery stores did not increase sales, that might be a factor in your government reconsidering it.

I am not at all sure myself—I want to make that clear—whether you want the sale of alcoholic beverages in grocery stores, particularly if it is going to increase consumption. I realize the difficulty in saying we will have one and we will not have the other.

It is all information that should be available in the decision-making process. I hope your ministry might gather that information, whether it acquires it from elsewhere or does an investigation on its own.

Hon. Mr. Elgie: If it is a policy decision that is put to us, again, I think we should do those studies. But it is not a policy position we are looking at now. If we do, I agree those studies will be necessary.

The member for St. Catharines (Mr. Bradley) again asked about the cost of liquor and commented that it is too expensive because of taxation. That is true. It is a tax issue. Ontario has

relied on the sale of alcoholic beverages as a substantial source of income.

I do not think the member was suggesting tax revenues should be reduced as a marketing strategy to increase consumption. If that is what he meant, how does he tie it in with our concerns about avoiding excessive and increased consumption of alcohol? I would like to know what alternative sources of revenue he has in mind if one did reduce the tax on alcohol.

With the clear side effect of increasing consumption, I think they are troublesome approaches to propose as serious policy options.

Do you have any views on alternative sources of revenue if we lowered the taxes on alcohol?

Mr. Elston: Are you looking to me to provide you with the answer? I am free to become a consultant, I suppose, a long time down the road.

Mr. Chairman: We will wait for Mr. Bradley's suggestions, I guess.

Hon. Mr. Elgie: What is your price, Herb?

Mr. Epp: I have a suggestion to reduce the advertising cost. You have \$50 million for public information, I am sure you could save money there.

Mr. Chairman: That is debatable too.

Hon. Mr. Elgie: Consumer education.

Mr. Swart: Can I intervene here? Maybe we should have all this discussion under the vote. Again, have you done any studies to show the cost? You did not mention this in your argument about lowering the tax. One of the main arguments is, what are the added costs the government has to pay for policing, hospitals and all these things? Has this been quantified at all so you can say whether the revenue you are getting from alcoholic beverages has some surplus, or have we just been collecting that to pay the various costs involved with society?

Hon. Mr. Elgie: I do not have any doubt that there is a cost to society in consuming alcohol. Alcohol, although it has many pleasant side effects and, if handled properly, is something that seems to be acceptable in society, does have side effects and does have consequences.

Mr. Swart: But you have not done any consultation on that?

Hon. Mr. Elgie: We have not quantified those costs.

Mr. Swart: It would seem to me there would be some value in that too. It would seem to me that would be one of the factors that should be—

Hon. Mr. Elgie: It is the sort of the factor that would make you want to raise the taxes on it to reduce consumption.

Mr. Swart: Quite frankly, it could be a good argument for you if you said the total amount of money was used in additional hospital costs, policing costs and all the other costs.

Hon. Mr. Elgie: It is a difficult battle, is it not? Lower the taxes; raise the taxes.

Mr. Chairman: If you made it illegal, you would still have the same problems with drinking. We had prohibition in the early 1930s and the accidents and the problems were still there.

Mr. Swart: I was not talking about prohibition at all.

Mr. Chairman: I am just saying that even if you did away with it, you would still have some accident problems. People are going to drink anyway; so why not control it?

Mr. Swart: We are not on the same wavelength at all, Mr. Chairman. I am just trying to find out, if the minister can tell us, the costs to society related to alcoholism and the consumption of alcohol versus the revenue that is received. That is all I am asking.

Mr. Chairman: With the same consequences. If it were illegal nowadays, what would the health cost be? In the 1930s people still drank, and there were accidents and health problems. That is all I am saying.

Mr. Swart: It is irrelevant to our discussion, but go ahead and say it.

Hon. Mr. Elgie: As we move towards lowering taxes and yet not increasing distribution and consumption, we also have to deal with the other issue that was raised, that of whether the food-liquor ratio requirements and other policies of the board are realistic. They are changed on occasion. The last time the food-liquor ratio was changed was three years ago, when it was changed from 50:50 to 60:40.

I think the board tries to keep a good handle on what is realistic for restaurants to try to achieve, recognizing that the public policy goal of the food-liquor ratio is to try to ensure that people who are having a drink also have some food in their tummies. That tends to slow down the absorption of alcohol and to limit its impact and effect.

The board is constantly reviewing a number of issues related to policy, such as food-liquor ratio. I do not think there are any immediate plans to make any recommendations about that one, although I do know some restaurants are starting to have some troubles with it because of the high cost of alcohol, which makes it difficult for them to meet the ratio. It is not an issue that we have closed our minds to, and indeed we are having

discussions about it, but to say it is on the verge of change would be misleading.

5:40 p.m.

Mr. Bradley raised a number of issues that Mr. Swart also addressed regarding cars, car repairs and lemon laws. I would like to deal with them at one time, if I may.

What I said in my opening statement and in the House with respect to lemon laws was that, having met with many of the legislators, particularly one from Connecticut who came up and spent some time with us as we were giving information to the Lastman committee, one of the main things we learned was that the deficiency of the lemon laws throughout the United States was the fact that they did not have a satisfactory arbitration process. Indeed, they all agreed that to say you have a lemon law does not mean much unless you have a successful, accessible, acceptable arbitration process that has good standard guidelines in place.

Therefore, the approach we have been taking is to try to see if it is not possible in a society where we are supposed to have goodwill to reach some voluntary agreement on this. When Mr. Simpson is here for his portion of the estimates, I am sure he will be interested in elaborating; but I might say that we now have total agreement from the North American car manufacturers and all the foreign importers to the establishment of an arbitration program, and a task force is currently working on the framework for that, the criteria, the selection of arbitrators and all the things that would have to go into making it a fair and good process. When those things are completed, I will be reporting it to the House. If we can do that, we will have achieved more than others with lemon laws, because they have not been able to arrive at satisfactory arbitration processes.

I know there will be some who will ask why we do not just pass a law, but I have to tell you that if you can get people to agree to the principles you are setting out to achieve, I think you end up with a better process. That is what we are trying to work at, especially since it will not cost the government any money.

Mr. Swart: Is that with regard to new cars you are talking?

Hon. Mr. Elgie: This is the lemon law. It is to do with new cars.

Mr. Swart: New car warranties. Did I hear you say used cars too?

Hon. Mr. Elgie: We are also in the midst of discussions with the industry on used car warranties.

Mr. Bradley: That concerns commercially sales rather than private ones.

Hon. Mr. Elgie: That is all we can do.

Mr. Bradley: Yes, you cannot do anything with these others.

Hon. Mr. Elgie: I understand Quebec has this used car warranty situation, but the reality in Ontario is that 60 per cent of used cars that are sold are disposed of by private individuals. I do not object to having a used car warranty, and indeed we are having those kinds of discussions now, but it will only be for cars that are sold off lots. The consumer who buys from a private individual will not have any such protection. However, that does not mean we should not pursue it as a good public policy initiative, and we are involved in having those discussions.

We are also involved in discussions with the industry about the whole matter of car repairs and no five-o-clock surprises and the return of parts, although one of the interesting comments we get on that last point is that you may find it increases your costs because many parts are recycled. If their return is taken away, they are not available to be used in other cars for repairs.

There are always a number of points of view to these things. Certainly, as I understand it, the city has passed a bylaw with respect to repairs and we will follow with interest how that works. As I said, we are in the midst of discussions with the industry about the whole issue.

Mr. Bradley: What about some kind of investigation of the atrocious costs of parts? When you go into a dealership to buy parts for a car, they are just so overpriced. I guess that unless you have a government authority saying what they can and cannot charge, it becomes a problem. I often think it would help if public attention were focused on the cost of individual parts. The costs are just unbelievable when you go into various places to buy new parts.

The cost of parts is one of the contributing factors, of course, towards the cost of insurance. I remember having an argument with one person in which I had to insist I did not want a new bumper. I was not paying for it anyway, but this person told me three times I needed a new bumper. I said, "There is just a scratch on the bumper; I do not need a new bumper." I was not paying for it, and neither was an insurance company. Some kid had backed into me; he was on a ball team I was coaching. I did not want to see this person robbed by having to pay for a new bumper.

The same is true when you try to replace a part that has been lost or damaged. Let us say you

break a tail light, for instance. There is no such thing any more of replacing the little piece you have knocked out; they have to take the whole tail assembly out and replace it. It is just unbelievable they can get away with it, but what does one do? They say: "We cannot replace the one little piece of broken plastic. We must take out the entire tail light assembly and put in a new one." Then we see the price of insurance going way up and anybody who wants to buy things privately knows what it costs.

Mr. Chairman: Is that not engineering design, though? Whether or not it is deliberate, it is still an engineering design.

Mr. Bradley: It may or may not be. I am not an engineer, but I would like to know why you cannot replace a piece of plastic rather than taking the entire assembly out. That is where our costs are. The insurance companies are obviously in business to make a profit, but they are also faced with situations where you replace everything. Try to have a tail light replaced if you back into somebody or into a post or something.

It may be engineering, as the chairman says, but we surely have to find ways of reducing these costs for the consumer. They are not being reduced; they are being increased. Somebody is making a lot of money on it, and it is not the consumer.

Hon. Mr. Elgie: But you are not suggesting it is lack of competition that is the cause. There are dealers galore around.

Mr. Bradley: Could you tell me where the competition is on the prices for those parts? They are all basically the same price. I am just asking if you have any magic ideas to overcome this.

If you, as the minister, stood up in the House and said one day—in an aggressive and bombastic way, as we always want you to—

Hon. Mr. Elgie: I am usually such a passive fellow.

Mr. Bradley: I would not say you were showboating, I would say you were the kind of minister I would applaud. I would bang my desk and applaud the way we are supposed to if you were to say, "As Minister of Consumer and Commercial Relations in Ontario, I am sick and tired of seeing people hosed on the price of parts for cars." That would have some effect on the industry.

Hon. Mr. Elgie: You would have to do some study to make certain that was true.

Mr. Chairman: In fairness, one of the reasons for the increased use of plastic in cars is to get the mileage up. I agree with you that when

we had steel bumpers on the older cars, you could hit a pole and you really would not do much damage. Now you touch the plastic bumpers and away it goes. You just have to touch plastic and it cracks under different conditions.

How do you tell them what they can or cannot use? We want increased efficiency for car mileage, and one of the ways to do that is to get the weight down; so they are going more and more to plastic. That is the problem.

Mr. Elston: That continues to be an important issue, particularly when the federal government is going to take us to world prices.

Mr. Bradley: You have already talked about ghosting, I take it?

Hon. Mr. Elgie: No, I have not.

Mr. Bradley: When it comes down to it, the ghost car is one of the best weapons you have in your arsenal against people who are going to be crooked in the business. If people knew the Ministry of Consumer and Commercial Relations had an extensive program and was going to come out with a ghost car to catch them, embarrass them and charge them, there would be a lot fewer people who would want to pull tricks on the unwary consumer.

There are some cases in which it is tough luck for the consumer. You have to be thoughtful and so on, but on the subject of cars, not many people know much about cars. You can really get hosed in car repair. That is the number one complaint I get, automotive repairs, probably because most of us go through it.

5:50 p.m.

Hon. Mr. Elgie: I agree, and certainly staff will agree with it. It is the best way of letting the person know that he might be caught any minute. Now there are some civil libertarians who disagree with that. It is called entrapment by some.

Mr. Bradley: I saw that the Sault Ste. Marie Star called it a fishing trip, but I do not consider it a fishing trip. I consider it a legitimate recognition that there is a problem out there. It can be solved by an aggressive minister who has enough clout in cabinet to get lots of money so that he can continue this program to protect the consumers of this province.

Hon. Mr. Elgie: You just took the tax away from me for booze and now you would like me to be aggressive and go out and get more money.

Mr. Bradley: As soon as you sell Suncor you will have all that money.

Hon. Mr. Elgie: We got Jim Coutts's prize company. You do not want to go against Liberal policy, do you?

Mr. Bradley: That is why he was defeated in Spadina, on that issue alone.

Hon. Mr. Elgie: We agree with you about the ghost car program and we are intending to step it up this fall. We will endeavour to see if it is possible to get as much funding as we would like in order to have an even larger program.

Mr. Bradley: The honest dealers, who are in the majority, will appreciate it because you eliminate the bad apples in the group so that all members of the group do not get tagged with the same thing. In addition, they will have fairer competition if you take out the bad apples who hose people.

Hon. Mr. Elgie: We tend to charge a fair number of people and we get a lot of publicity over it. It is interesting to notice that after we put the story out about it, suddenly there are a lot more ads about the company involved. Did you notice that?

Mr. Bradley: Yes.

Hon. Mr. Elgie: It is fascinating how they try to counter the bad publicity.

Mr. Epp: Therefore you get a lot of support from the newspapers and the media for your story because they know they are going to sell more ads.

Hon. Mr. Elgie: Sure, they are delighted. They are going to get lots of ads. You mentioned the business of overcharging on car repairs when the insurance company is paying. I guess the insurance companies have tried to deal with this through appraisal centres and through lining up a group of repair shops that will do the repairs at the appraisal level. When that happens, then you get people from Mel's community a little upset that there is some discrimination going on against them. I suppose the only answer is to be sure everybody has access to that inner circle.

Mr. Swart: That is a real problem.

Hon. Mr. Elgie: It is a dilemma, is it not?

Mr. Swart: Down in our area—and I am sure it is the same all over—you will get a place like Sun Collision that gets all of his main business from one major insurance company. They start competing for discounts; not public competition but behind-the-scenes competition. You have The Co-operators which has, as I pointed out, a sign in the office telling people "Just go to these four"—and The Co-operators is by far the biggest—which is not fair. If it was a case of tendering for it and then weeding out—all of us would agree you weed out those who do not give the service—but when you have 50 shops and you

have the biggest insurance company saying "Do business with these four" and you have the second biggest saying "Do business with this one," it is pretty unfair to those other shops.

Hon. Mr. Elgie: I do not know what the easy answer is.

Mr. Bradley also asked about consolidating consumer protection programs under one piece of legislation. I am told the idea of consolidating consumer laws in one document or one piece of legislation has been in and out of vogue with members of the policy division and the staff over the years. Although there is something theoretically appealing about a single statute, proposals over the years have been made to create such a statute containing all consumer rights. The issue then becomes where to begin and where to end.

The concept of consumer rights has grown so broadly that it now encompasses provincial legislation alone, ranging from contract disclosure to real estate brokerage regulations to travel

compensation funds.

In the end, our people have come to the conclusion that we are probably better off with single-subject-type statutes. Perhaps we can do more to bind them together into units that are more readily understandable by the public. Is that something we have looked at?

Mr. Crosbie: Yes. We are concerned that when you put everything together in one book and, for example, you have to republish, you may be reprinting what are now three or four separate acts because you have just changed one of them. So there is an element of convenience and economy in having a single act. Quite often, if a person has a problem in a single area, he does not want to plough through the large act.

It is similar to what we hear now about the Municipal Act and trying to find anything in it. That is because everything relating to municipalities has been put in one act. We think we run the risk of creating the same sort of cumbersome document if we try to keep all consumer legislation together.

Mr. Elston: That is really a little bit like the debate that has surrounded the question of property rights; for instance, when we were dealing with family law reform, and it had to do with the Matrimonial Causes Act and all of that stuff, they eventually got around to putting most of that legislation in one place.

The debate is still going on about other areas, but certainly if I happened to be a municipal clerk and I wanted to know about one particular item in that field, I would go to the Municipal Act and know I do not have to go to four other places.

That act governs it all. I think that is really the concern surrounding the question of children's legislation as well, if I am not mistaken, from our earlier discussion about those amendments.

Hon. Mr. Elgie: Is it something worth looking at?

Mr. Crosbie: As I have tried to indicate in the answer, it is something we have looked at time and again. It depends on how you want to focus. Children and liquor come together at some point. Are you going to take the sections in the liquor legislation dealing with the age of drinking and put it in children's legislation, or leave it where it is now? You are making that sort of choice constantly.

Mr. Elston: That connection is not as large as maybe a better example would be. I understand what you are saying, but certainly when it comes to having a guideline for when a consumer is to be protected or where he can look to a series of boundaries within which he is protected, it seems to me a bit better than having to leaf through a number of bills and come up with several—

Mr. Crosbie: I could mention that in another area of our corporation legislation, we have just been going through a process of unbundling because the nonprofit corporations are in with business corporations and others. We are now trying to put them in units where people can look. Our insurance legislation got bundled together and the marine insurance is buried in with the rest; so it is a judgement call of what is most convenient and whom you are trying to serve.

I think it is particularly important in our consumer legislation that you be able to identify quickly the legislation with which you are dealing. It is not quite the same as with the municipal clerk, and I would agree with your example there. He becomes familiar with the act, and it is easy for him, but for the layman to come in and try to find something in the Municipal Act it is a nightmare.

Mr. Chairman: Excuse me, Mr. Crosbie. Mr. Swart has a point to make.

Mr. Swart: I really want to raise a point of order, Mr. Chairman. There are certain people in my caucus, and I presume it is true in all of them, who want to be in on certain items. We are running down now to the latter half of our time.

First, I would like to ask how much time we have left as of six o'clock?

Mr. Chairman: We will have seven hours. Tomorrow we could possibly deal with setting the agenda.

Minister, how long do you think you will be?

Hon. Mr. Elgie: I can finish in less than half an hour.

Mr. Chairman: Would it be agreeable to the committee that we let the minister finish in a half hour tomorrow morning and then we will divide the time up?

Mr. Swart: Yes, we can. The member for Hamilton East (Mr. MacKenzie) wants to come in on pensions. Are we going to get to pensions tomorrow? It is in vote 1602.

The only other questions I want to raise on vote 1601 would be very brief, under information services. I do not know if the official opposition wants to raise matters under vote 1601, ministry administration, or whether we can assume that might be carried tomorrow by 12 o'clock.

Hon. Mr. Elgie: What is it you want to deal with in my book?

Mr. Chairman: Information services, number 5.

Mr. Bradley: We could probably carry the administration quite easily tomorrow.

Mr. Swart: I do not think there is any question we can. I was wondering if we will get to pensions tomorrow.

Hon. Mr. Elgie: Information services tomorrow?

Mr. Swart: Yes.

Mr. Chairman: You have some questions on that.

Hon. Mr. Elgie: Who else would you like here tomorrow besides information services?

Mr. Chairman: Vote 1602 on pensions.

Mr. Swart: Yes. If we could set up pensions tomorrow, if we have time for it, then we will know.

Mr. Chairman: Pension plans, item 2.

Hon. Mr. Elgie: Okay. We will have those two groups here tomorrow.

Mr. Chairman: Thank you very much, gentlemen. We will adjourn now until after routine proceedings tomorrow morning.

The committee adjourned at 6:01 p.m.

CONTENTS

Thursday, November 8, 1984

Ministry administration program	J-419
Adjournment	J-437

SPEAKERS IN THIS ISSUE

Bradley, J. J. (St. Catharines L)

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Elston, M. J. (Huron-Bruce L)

Epp, H. A. (Waterloo North L)

Kolyn, A.; Chairman (Lakeshore PC)

Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister







Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administratrion of Justice
Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament Friday, November 9, 1984



Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 9, 1984

The committee met at 11:22 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Ladies and gentlemen, I see a quorum. The minister will be continuing with his comments to the critics' questions. Please continue.

On vote 1601, ministry administration program; item 1, main office:

Hon. Mr. Elgie: Mr. Bradley wanted to know if people who installed urea formaldehyde foam insulation were going to be compensated. As members are aware, the former federal government established the UFFI removal program and my ministry's involvement really has only been twofold. It has been, first, to act as the liaison with the home owners' group; and second, to deal with the consumer protection aspects of the federal UFFI removal program.

We continuously liaise with federal program officials to ensure that contractors enrolled in the federal program in Ontario meet provincial requirements in relation to the Consumer Protection Act. Our involvement in this area will continue until the program is terminated.

We understand from the results of federal studies that only about 10 per cent of UFFI installations cause problems for their occupants. The latest figures we have indicate about 22,000 people have submitted claims to the federal government under the program.

Mr. Bradley also asked about the ministry's latest activities dealing with problems which surfaced at bingos and the effect of the proliferation of government lotteries on service club lotteries.

There are more groups operating bingos than ever before. Some groups have moved from smaller buildings into larger bingo halls because they can generate higher attendance and make larger profits. We are working successfully, we believe, with municipalities to keep operating costs at the required percentage level. Proceeds for local betterment programs are increasing because of improved cost-efficiency and continuing strong public demand for bingo.

Because the market is strong, it is not clear that the Ontario Lottery Corp. games and other lotteries are deflating charitable bingo revenues to any significant extent. However, that question might be more properly put to the Minister of Tourism and Recreation, (Mr. Baetz).

Mr. Bradley also asked what the ministry's position was in dealing with problems that arise in NHWP, the new home warranty program.

Since its inception, that program, as I have mentioned before, has paid out over \$16 million to consumers who would either have lost deposits or had to pay for unfinished work out of their own pockets. This year, the program has received close to 7,500 written complaints, which have resulted in 1,737 conciliations. The balance were handled directly by the builder on advice from the new home warranty program. The 7,500 complaints were generated almost exclusively by homes occupied within the last 15 months.

The program follows an established complaint-handling procedure which seems to work very effectively. Builders are advised of a written complaint within two or three days at the most. If the builder does not respond within 17 days, the home owner advises the program while at the same time requesting a conciliation. A conciliation can be scheduled within two days, but it may take two or three weeks as the program insists that the builder as well as the home owner be in attendance.

Following a conciliation, the builder is given a further 17 days to commence work and the home owner is to notify the program if the work does not commence. If, for some reason, the builder does not show up, the program has a number of contractors who will work on a time-and-material basis at predetermined prices who will quickly commence work.

This is for jobs that are under \$1,000. On larger jobs the program finds it prudent and advantageous to request bids. To put this in perspective, the number of contracts awarded in the current year in Ontario was 300 out of 42,000 units. It can be categorically stated that in excess of 90 per cent of contracts are completed within two weeks of the date of commencement.

It should be mentioned that the program frequently receives letters from elected representatives from all levels of government and occasionally from home owners who feel that perhaps the program should have done more than

it did. Invariably, these files are reopened and are reviewed by other people highly skilled in their business.

Although the program's procedure works extremely well, we are constantly exploring new ways and means to improve services to the customer.

Mr. Bradley also asked why the ministry does not appear at hearings—for example, at the Bell Canada rate increase hearing—if it, indeed, purports to be a consumer ministry. This is a matter Mr. Swart has raised on many occasions.

There are many areas of consumer interest that we in this ministry do not happen to cover. For example, health care, an immensely important consumer issue, is the responsibility of the Ministry of Health. In the case of Bell Canada hearings before the Canadian Radio-television and Telecommunications Commission, it is the responsibility of the Ministry of Transportation and Communications to represent the consumer. Counsel for that ministry, I believe, has been very effective in representing the views of Ontario consumers and the business community to the CRTC.

Ministry of Transportation and Communications officials do an in-depth analysis of all Bell Canada rate increase proposals, which are based on a regulated rate of return, and are constantly questioning and providing opposition to the requests made by Bell for additional fees.

Mr. Bradley wanted to know if lawyers who participated in the Re-Mor Investment Corp. case had been paid yet. The government undertook to pay solicitors' costs for the test cases only. On May 23, 1984, the Attorney General (Mr. McMurtry) received the solicitors' 41-page overall account for \$450,000, plus \$9,000 for disbursements.

In the Attorney General's view, the suggested fee was excessive. A number of individual items listed in the account did not refer to the test case but to other questions raised in respect of the Re-Mor proceeding. No credit was given in the account for the payments already received, and a number of the disbursements—particularly for transportation, rental of hotels for meetings and photocopying fees—were thought to be questionable or excessive.

Counsel for the solicitors of these matters have been advised of these concerns and of the necessity for a taxation of these accounts. I would like to note that solicitors have already been paid \$49,500 as partial payment of their interim accounts without prejudice to the rights of either party to an ultimate taxation.

Mr. Bradley also asked if the minister would comment on the Argosy case and the dilemma being faced by the preferred shareholders of Crown Trust Co.

I know it may not be an acceptable answer for him, but I must remind him that the preferred shareholders are suing this minister and this ministry, and, therefore, we have directed all questions in this matter to counsel at the Ministry of the Attorney General. As you know, it is difficult to discuss the merits of the case when there is an action before the courts asking for damages.

I will say the actions we have taken to date have always taken into account all legal obligations to all the interested parties, including the preferred shareholders. We have at all times attempted to respect their legal rights.

In the case of Argosy, as the member would know, that issue, too, is before the courts and I will not comment on it at this time.

11:30 a.m.

Mr. Bradley asked what the ministry was doing about insurance companies automatically increasing insurance premiums when young, high-risk individuals do not drive the family car but are licensed to drive. He used the example of Mrs. Bruce. It is not an easy question, but I will attempt to provide a response I hope will be acceptable.

It is not a universal practice for all insurers to automatically increase the premium with respect to the family car when a young, unmarried, male member of the household obtains a licence but will not be driving the insured car. Some insurers accept the insured's declaration of the circumstances without question and waive the occasional-driver surcharge. Others require evidence of good faith in the form of an endorsement or side agreement which discloses to the insured that the insurer has the right to recover any claim paid if there has been a misrepresentation to avoid the surcharge.

A few, noting the impracticality of recovering a large liability claim of several hundred thousand dollars in the event of misrepresentation, prefer to base their liability pricing on the presumption that all licensed drivers in the household may use the car. I guess that is the case Mr. Bradley is talking about.

In Ontario's competitive insurance market, it can also happen that the total cost of insurance from an insurer who levies a surcharge based on licensed drivers will be less than that from another who does not automatically surcharge. Therefore, the consumer has an obligation to

compare the total cost of insurance when shopping around, in addition to examining the details of the particular insurer's pricing structure.

The present system gives priority to ensuring that accident victims get paid by relating the insurance contract to vehicles rather than drivers, thus avoiding disputes over who was driving. However, this does place the insurer in the position of being very dependent on the truthfulness of the insured. Mrs. Bruce proposed changes which would have left third-party accident victims unpaid in the event of a misstatement of risk. Such a situation would be unacceptable in Ontario and Mrs. Bruce's proposal was rejected.

The ministry has, however, changed the standard auto insurance application form to place more emphasis on the consequences of a material misstatement of risk, which may encourage insurers to place more reliance on the representa-

tions of the insured.

Mr. Bradley also asked if the ministry is doing anything to ensure that pension plans are solvent. I believe his question was, "Are we in danger of having another CCM on our hands?"

According to the Pension Benefits Act, a plan is deemed to be solvent when the employer makes current service and unfunded liability payments in the time prescribed by the regulations. The present legislation allows payments to be made annually in arrears and permits a 15-year amortization for unfunded plans. This 15-year period is the same throughout Canada, whereas in the United States it is up to 30 years.

With regard to improving the legislation: yes, we are moving to do that. For example, the changes that are presently being considered by the Pension Commission of Ontario are, first, requiring monthly payments rather than annually in arrears. Second, consideration is being given to shortening the time for filing reports, to give the Pension Commission of Ontario information more quickly to deal with delinquent situations. Third, they are contemplating granting to employees and agents the right to have evidence that the employer is making payments as required. In addition, the commission is pursuing late returns with such a dedication that employers have taken note of it.

The member will also recall that we have established a pension guarantee fund to ensure that certain types of pensions will be available when a plan is wound up, as in the case of CCM, for example. In that instance, the recently established fund paid out approximately \$1.5

million to CCM employees. I believe these measures, when they are approved, will give added and needed security to plan members.

Mr. Bradley: When do you expect those will get approval? They sound like some positive steps, but when can we-

Mr. Crosbie: I think we hope for the spring.
Mr. Bradley: Did I hear you say this takes legislation or just regulation?

Hon. Mr. Elgie: These are only regulatory changes, which may not take that long. The commission has been wrestling with it. When I get a formal request, I will discuss it with my colleagues in the policy field. Certainly I am supportive of the approaches they are taking, so from my point of view there is no reason for any delay.

Mr. Swart asked a question he has never raised before, and that is why Consumers' Gas was allowed price increases that boosted their net income 35 per cent in 1982 and 20 per cent in 1983, and why did the ministry not represent consumers when the hearing that took place was attended by two lawyers and 20 witnesses on behalf of Consumers' Gas; also why did we not intervene on behalf of the consumer in front of the Ontario Energy Board in relation to hydro increases above the five per cent inflation guideline.

The fact is the Ontario Energy Board has the responsibility of determining just and applicable rates charged to the consumer by energy providers. The board is diligent in its examination of rate increase applications and the onus is clearly on the company to prove the need for any increase.

The board retains a special counsel to advise them on the applicant's proposal on behalf of the public and employs a rate-of-return expert to counter company experts. The board encourages participation by affected parties, either through a lawyer or a group spokesman. The applicant is required to place notices in local journals announcing that an application for a rate hearing increase has been filed.

The Ontario Energy Board, as I am sure you know, because of its concern for the interests of the consumer, will also be holding a hearing concerning the awarding of costs to interveners; I believe that is set for the 20th of this month.

However, it is interesting to note that the board, in an attempt to encourage local input, recently held a hearing on a matter of local interest in Sudbury. In spite of the wide publicity given to the hearing in the Sudbury area, no one

showed up except the board members, the staff and the applicant.

The message I am trying to give you is that an independent board looks at the issue, places the onus on the company, has counsel there to question whatever the proposals are and has experts there to judge the rate increase applications and to counter company experts.

There is considerable protection built in for the consumer already and I understand you would like another layer and perhaps even several layers. However, the combination of an independent board, a counsel and independent experts advising the board surely, I think, goes a long way in providing the public with a degree of protection.

Mr. Swart: Can I just interrupt on that matter? Perhaps, first, I should apologize for not being here; I was speaking upstairs. I made arrangements for another member to be here, but he was coming in from Hamilton and did not make it. I do not know if there were traffic problems or not. I did not realize that until I came in. I do apologize and I am glad you proceeded.

To refer back to this issue, the minister knows very well that you cannot have a totally fair hearing if you have a board itself acting as an advocate and a jury. This is what the situation really is; there is an advocate and an arbitrator. At least that is what you are trying to tell me the situation is. They do their own investigation; why do we need Hydro there if they are doing their own investigation?

If you are going to have an absolutely fair hearing, both the protagonists have to have equal facilities to argue the two sides. If you have an independent body which is just sitting down, if you send your people out to do an investigation on something and they make that report, and if they do not have any hearings, then I presume that could be a neutral report.

However, when you hear only the side that wants the increases, the side that has tremendous funds to get all kinds of experts to argue for those increases, whether for Bell Canada, Consumers' Gas or Ontario Hydro, the result cannot be completely fair. It would be fair to have the company promoting the increases, Consumers' Gas, on the one side; and the customers, the consumers, on the other side, equipped with equal resources, to put forward their views on why the increases should not take place. Then you have the central body doing an investigation if they want to.

I suggest, Minister, that you, to a very substantial degree, believe what I am saying. The

Ontario Energy Board is now suggesting that perhaps they should fund the interveners for the consumers for just that reason, but I say that is wholly inadequate, because unless they have resources almost equal to the other side they cannot—

11:40 a.m.

Hon. Mr. Elgie: What they are also saying, when they are holding that hearing, Mr. Swart, is that consumers do not have a single view, and yet what you propose is a public advocate who is to have a single view which may not, indeed, represent all the consumers.

What the government is endeavouring to put in place is an independent administrative tribunal with representatives of the public on it and with a counsel there to question the validity of documentation and the application; and with experts also there to examine and question the validity of the documentation.

What the board is doing is holding a hearing on whether or not—given the widespread views of consumers—there is any merit in looking at providing some mechanism for costs for a variety of views, because, although I certainly have some sympathy for the concept of an advocate, I am troubled by the fact that consumers do not have a single view on issues. I certainly have encountered that in my experience in this ministry and I am sure you have encountered that as you have wandered through the province.

Mr. Swart: That statement has some validity. I suggest to you though, that when it comes to an increase in gas rates, from the consumers generally there is a strong feeling they should go up the absolute minimum necessary.

Granted, you may have the—what is the term they use for the major gas consumers who appeared at the hearing? You know the group I mean. They may want to be there to present their case with regard to division, how much one should go up vis-à-vis the other. To say there is not some general community of interest of the customers, or that the major issue generally at these hearings is not a community interest of the consumers would, I suggest to you, be an inaccurate interpretation.

The system I would like to see is the system in place in—you are frowning; I am going to quit—in many of the states in the United States, where you have this general common interest represented by the public advocate, or the consumer ombudsman, or whatever you want to call him. The exceptional interests can be represented there as well and are represented there.

Hon. Mr. Elgie: Mr. Swart, I was only frowning because I think when you brought the matter up two days ago you did it quite eloquently and we are reopening old wounds. I understand your position and I understand the ministry's position.

Mr. Swart: You are absolutely right. I feel strongly about it and I get carried away about it and I apologize.

Hon. Mr. Elgie: I know you do. You also asked a question about the fairness of our auto insurance program, using examples of higher rates for young drivers, comparing them against provinces with richly-funded and -managed automobile insurance schemes.

I have asked my staff to do a detaile d study of comparisons of the provinces and differences in legislation. I am not sure they all have the same family law reform changes we do, that they all have the same statutory procedure guide changes we have. Those are all things one has to take into account, including the minimum level of insurance required in each province.

If it is acceptable to you, that is a question to which I propose to respond when we get to the vote.

Mr. Swart: I accept that. I am wondering if you have access to the one that was prepared for me by the library. If not, that is a good place to start.

Hon. Mr. Elgie: I do not know. Do you have a copy of it?

Mr. Swart: I have a copy which I will see you get.

Hon. Mr. Elgie: Jim Bradley also asked about the issue of birth certificates and the Robert Halfyard incident. I think that is an issue, too, which I would like to discuss when the registrar general is here, because it is a difficult issue, as you know. We think it is an isolated case, but it does not mean, with any certainty, that it could not happen again. When Mrs. Drapkin is here, I wonder if we could go into it in some detail because it is important.

I have some comments, if I may, with respect to lemon laws and I think we went into that in some detail yesterday. The member also acknowledged that this ministry has provided a great deal of protection for consumers through its compensation fund approach and through some of its other legislative interventions, but complains that we are very lax in dealing with prices.

I guess it is because we have a fundamentally different point of view. We happen to believe

that prices are best set by the market; and I would put to you that, if you compare four-litre milk container prices across this country, for example, you will find in four provinces it is slightly less expensive and in four provinces slightly more expensive. In the long run, however, our prices tend to be, on average, just about where the others are, whether they are regulated in other provinces or not.

The market has proved it works satisfactorily in areas like milk and food. As you know, we have had hearings and royal commissions into whether there should be price controls on certain items. It has always been felt the market could best deal with them and that is the position this government has taken.

I know that is not a position you agree with in all instances. I have heard you say, however, that as long as satisfactory competition is in place, you believe the market can produce a reasonable and fair reflection of price.

You also made the statement there has been no support for any change in competition legislation. I made it clear, at the interprovincial meetings and meetings with the federal government, that all we ask is for them to show us what they will put on the table. We are prepared to sit down and discuss it with them. Indeed, at the last provincial ministers' meeting, it was agreed we should meet the new minister to express our wish that new competition legislation be put before the public. There is no resistance on our part.

Mr. Swart: What kind? Tougher competition legislation?

Hon. Mr. Elgie: When it is before us, we will evaluate it and see what changes, if any, we feel are needed. That will be a government decision based on an interministerial review. We are not saying there should be no change to the country's legislation.

Mr. Swart: I just wanted to point out that my reference was to Mr. Walker. I am sure you have seen his document and I am sure you know he has strenuously opposed any attempt to toughen the competition legislation. Since that time, it is true the former federal government did water down the legislation and have never proceeded with it. My comments referred to that.

Hon. Mr. Elgie: Our present approach is that we are prepared to get down to reviewing new legislation. All we ask is that the government put it forth; we will comment and work towards a bill that is acceptable.

In the trust company area you referred to an editorial in the Toronto Star which expressed impatience in the trust companies matter. I am

not quite sure what that means and I am not quite sure the Toronto Star really has looked into all that we have learned about the trust companies issue.

We have, I think, a pretty thorough report in the Morrison special examination. It examined the whole Cadillac Fairview Corp. Ltd., Kilderkin Investments Ltd., Crown Trust Co., Rosenberg matter in a great deal of depth despite the fact that in December 1982 I was repeatedly told by both parties in the House we would never be able to find out this thing and that thing. Well, all those things did come to light.

Through the actions which have been taken, not only through the Morrison special examination but also through the independent civil actions, information has been obtained that could not have been obtained in any other way. Specifically, in April we were able to uncover information about transactions that took place in the Cayman Islands, in spite of their secrecy laws. I suggest that information would not have been obtainable by any other method.

I think the public should feel more information has been obtained in a shorter time than would have been possible through any other route. I think the issue has been well reviewed now. There are matters of substance that are still before the courts and that is the only place they will be or should be resolved.

That gets down to the next issue you raised, which is how a government can seize and sell someone's assets. It did it in a democratic process before this Legislature and put it to a vote in the House. If that is not democratic process, then I do not know what is.

11:50 a.m.

In addition, I would say it was such a process that if anyone questions it they are free to take the matter to court, as they are doing. If there is any honest belief in anyone's mind that the government acted beyond any statutory authority or constitutional authority it has, the option is there for them to prove it.

I do not feel there was any impropriety in the government's action in that case. Indeed, all I heard in December was, "Why are you not doing more and why are you not moving more quickly to stop this?" I even had calls from opposition parties to intervene and stop the sale of properties. Now you ask me how in the world could we intervene to do these things? Well, we did it in the open; we did it in the Legislature, and through a democratic process.

I do not believe the laws are too lax or too feebly enforced. Indeed, I believe the increased

emphasis on enforcement and the get-tough rules of the financial institutions division now puts us in the forefront in being able to monitor adequately the activities of trust companies. That does not mean there will never again be a failure. No one can guarantee against that. All we can put in place are mechanisms to minimize that risk.

We are still in the process of reorganizing that whole division to make it even stronger than it is now. At the present time, I would say it is in the forefront in this country.

You raised the issue of self-dealing when you talked about loans to yourself. I mentioned that and it was referred to in the white paper. The conflict of interest issue, particularly as it relates to self-dealing, is one that is paramount and that is going to have to be faced. It is one of the matters we are reviewing as we draft the new Loan and Trust Corporations Act, and it is one of the matters that the task force on financial institutions will undoubtedly be looking at.

On the issue of beneficial ownership, you will know that in the revision to the Loan and Trust Corporations Act that were passed on December 21, 1982, the registrar was given new powers which enable him to find out who the real beneficial owners are, by whatever difficult route they may have ownership. There is now authority within the Loan and Trust Corporations Act to find that information.

However, I understand your question goes beyond that into the broader area of beneficial ownership. It is an issue we are looking at from a policy point of view and I really cannot comment at this time.

Mr. Swart: You did not mention-or did you-the 100 per cent-

Hon. Mr. Elgie: The 10-per-cent rule? Mr. Swart: Yes.

Hon. Mr. Elgie: Your view is that it should be limited to 10-per-cent ownership.

Mr. Swart: There is danger in having a 100-per-cent firm.

Hon. Mr. Elgie: All I can say is that, first, the 10-per-cent rule was put in place originally to limit and put some controls on foreign ownership of the banks. You know that and I know that. The other side effect is one that was incidental.

You would also know, upon reviewing United States Federal Deposit Insurance Corp. figures, that of the vast number of failures they have—I think it is something like 57 to date this year—it would appear that in about half the companies there is majority control and half widely-owned ownership.

All I am saying is it would appear that bad management, as well as bad owners, can produce bad problems. We think that is rather a simplistic approach to the problem and we are looking at areas related to self-dealing and conflict of interest and all those things.

I suppose one could even point to some problems there have been with credit unions and say they are prime examples of widely-held institutions which can nevertheless get into some difficulty. No matter whether one accepts a 10-per-cent rule or not, I say you still have to have greatly strengthened legislation in place. That is the route we are taking at the present time.

Mr. Swart: Can I just say two things? One is I do not want to be unfair to the minister. I asked these questions because I think they are legitimate questions that should be asked and answered. I do not particularly want to associate myself with them all, but I would say to the minister I associate myself with the views which are implicit on some points.

I would say to the minister the general handling of the legislation you had on the trust companies, even that by which you took them over, is not undesirable. I am not terribly critical of that, but I think the questions the Toronto Star

raised are legitimate.

I also want to say, with regard to 100-per-cent ownership, there is much more danger of very special interests when just one or maybe two people are involved. Generally, broader ownership serves the public interest better perhaps than sole ownership.

With respect to the figures you give of 50-50 failures in the United States in each class: to have any meaning, how many of each would there be there? What is the ratio of the singly owned corporations? They do not mean much unless you have that comparison.

Mr. Chairman: I do not want to interject, Mr. Swart, but when we did the loan and trust legislation, this issue was debated for two or three days with the deputy. It is quite fascinating.

Hon. Mr. Elgie: There are a lot of different views.

Mr. Chairman: Yes.

Hon. Mr. Elgie: Your colleague, Mr. Renwick, had some difficulty with it.

Mr. Swart: I would concede that when you get more knowledge-

Hon. Mr. Elgie: When you split ownership, who really is running the company if you spread the ownership out? There are many sides to the argument.

Mr. Swart: Mr. Renwick is more knowledgeable about this.

Hon. Mr. Elgie: I would not say he supported our position, but he accepted that there are different points of view on it.

You commented on the delay in getting the Thom report. I think the commissioner honestly did not believe it would take so long. Initially, one of your colleagues felt I may have misled him, but I did not. The commissioner really believed I would have the report in February.

Later, I had information I would get it in April. Then he decided to hold more hearings because as he started writing the report matters that needed to be addressed seemed unclear. I think the time it took reflects his desire to have an in-depth study and produce a report that would cover the issues he had been assigned to examine

I do not think that, in the meantime, anyone should be suggesting the world was sitting by idly. The Residential Complexes Financing Costs Restraint Act was in place. The members of the rent review board increased their activities significantly with respect to enforcement. The commissioner comments on that in his report. So there was much activity going on to improve the system and, as many people have pointed out, the reasons for a lot of rent review hearings—namely, high energy costs and high interest rates-started to fade and the number of applications dropped significantly, too. Indeed, I believe they dropped by 60 per cent last year.

I have tried to indicate the serious way in which I take this report by taking two initial steps while we review and assess the merits of all aspects of it. The first was to rescind the \$750 exemption, which I think you will agree was a major step; second, to get the agreement-and without dissent from my colleagues-that we renew and extend the Residential Complexes Financing Costs Restraint Act while we consider all these proposals so we do not put tenants in any jeopardy before a final package of amendments comes forth.

We have committed ourselves as a government to a rent registry. The working committee that has been assigned is working diligently. It is not something they are treating as an hour-amonth project. They are dealing with it two, three or four half-days a week. It is something that is being actively pursued. It is not being put on the shelf.

With regard to the relationship between the government and the credit union movement, I

would have to ask you to be more specific. If there is something you really had in mind-

Mr. Swart: I asked two specific questions. **12 noon**

Hon. Mr. Elgie: You commented on the relationship between the government and the credit union movement, and you asked why Ontario Hydro will not put deposits in the credit union.

Mr. Swart: Why Hydro does not have the power.

Hon. Mr. Elgie: Does not have the power to put deposits in the credit unions?

Mr. Swart: Yes, why do we not change the legislation to permit it?

Hon. Mr. Elgie: I do not know the reasons for that. I will have to make inquiries.

Mr. Swart: Could you look into it?

Hon. Mr. Elgie: That is under the Power Corporation Act.

Mr. Swart: Yes, I believe it is under the Power Corporation Act that they are excluded at present; and why the government itself does not make deposits in the credit unions.

Hon. Mr. Elgie: I do not have the answers but I will endeavour to get them.

Mr. Swart: Perhaps when we get to that item you could check it out. The reason I raised that is, it seems to me the credit unions are acceptable, viable institutions. Why should they not be subject to the same rules and regulations concerning the government or hydroelectric power commissions investing money as trust companies or banks or wherever?

For a long time the municipalities could not use the credit unions. That was changed. I do not think you would say there have been any problems because that has been changed. I am just saying these other two areas should be looked at and changes should be made.

Hon. Mr. Elgie: I will certainly explore that. As you know, part of the legislation passed by all parties in June, 1983, will require a move for credit unions to increase their reserves, to move towards five per cent in reserves. Certainly, I would think credit unions that are well on the way to that goal will be showing a degree of stability that might warrant reconsidering those things. In any event I will have discussions to see what the status is.

Mr. Swart: If I could say one other word here, they are permitted to use trust companies. Some of the trust companies and financial institutions, sometimes for legitimate reasons, have been in

real trouble. I have no objection to your trying to provide all the security you can for these. I just raise the point, and I do not think you disagree with me, that the credit unions should be judged on the same basis as the trust companies.

Hon. Mr. Elgie: It is certainly something I will raise.

As for changes in pension legislation, as you pointed out, although the administration of pension legislation falls within this ministry, policy and pension reform falls within the domain of the Treasurer (Mr. Grossman). I do not think there is any evidence of any delay on his part. I believe there is a meeting of deputies on that this month.

Mr. Crosbie: Yes, there is. Once again, Gemma might be able to tell when her committee meets.

Mrs. Salamat: It is a meeting of officials.

Mr. Chairman: Excuse me, could you please come up to the front and identify yourself, and then you can answer the deputy's question?

Hon. Mr. Elgie: This is Gemma Salamat, superintendent of pensions. I believe there is a meeting of officials this month and early next month there is a meeting of the ministers involved in pension reform throughout the country. Is that not correct?

Mrs. Salamat: Yes, that is correct. On December 3 there is the meeting of ministers to try to accomplish some uniform package of legislation that will apply throughout Canada.

Mr. Swart: My colleague Bob Mackenzie wants to get in when we discuss pensions in a little more detail, but are there specific proposals? Is this sort of a finalization meeting that is going to take place in December, out of which you hope will come agreement so that you can move on legislation?

Hon. Mr. Elgie: At the last meeting, the Treasurer attempted to narrow the list down to areas of agreement and areas of disagreement, and to try to whittle away at areas where there was disagreement. Following that meeting, some papers were prepared and they have been distributed to officials. Now ministers will meet again to see whether or not there can be agreement.

You will know that there was not agreement, generally, on some type of indexing of pensions among all provinces, although that was Ontario's position and the Treasurer put it forth very strongly. That will be another of the issues before the officials and the ministers when they meet in December.

Mr. Swart: I guess the real point I want to make here, and I am sure you have concern about this too, is that sometimes these things can carry on and on. If we are looking at two or three years down the road, or at a breakdown of negotiations, then I think there has to be consideration given to implementing the proposals in the white paper here. I am all for having as much of a uniform system as we can across Canada, but there are certain changes that are desperately needed and I think there is a limit to how long we can wait.

Hon. Mr. Elgie: As I recall, I think the Treasurer's goal is for 1985. Is that not what he said in the past, that his goal is for legislation in 1985? He has stated that in the past.

Those are the responses I have to make to questions that have been asked so far.

Mr. Bradley: Before you finish those responses—

Hon. Mr. Elgie: I just did finish them.

Mr. Bradley: I will see how flexible our chairman is.

Mr. Chairman: Before we get into your questions, Mr. Bradley, we had agreed yesterday to deal with information services, because Mr. Swart had a few questions. We are still on vote 1601, but he wanted to move to vote 1602, on pensions. We have an hour. If you have a question, I think we can allow it, but try to keep it short.

Mr. Bradley: I will tell you how it ties into the end of his statement. Unfortunately, I did not get a chance to be here for all of Mr. Swart's opening remarks, but he likely said similar things at the beginning of his remarks. You will probably recall comments about a minister in Ontario who is known as the Minister of Consumer and Commercial Relations being truly a consumer minister and a consumer advocate in terms of representing the people in Ontario. What I would like to tie this into, if I may—

Hon. Mr. Elgie: Watch him, he has a smile on his face.

Mr. Bradley: —is the news we had last night coming out of Ottawa as it relates to world price for oil. I understand what others are saying; the Minister of Energy (Mr. Andrewes) has his particular bent on this, and the Treasurer and so on.

What do you, as the defendant of the consumer in Ontario, plan specifically to do in relation to the federal Minister of Consumer and Corporate Affairs and the federal Minister of Finance to ensure-because I know your government was

very concerned about it a few years back—that Ontario is not going to be devastated by this latest attack on the Ontario economy by going to world price for oil?

Hon. Mr. Elgie: I am sure this is a question you will pass around from minister to minister, and it has been asked of two or three today.

Mr. Bradley: But you are the consumers' minister, and I think you are the-

Hon. Mr. Elgie: With respect generally to the issue of pricing and practices in the petroleum industry, you are well aware of the fact there is a restrictive trade practices hearing in process, so the issue of the petroleum companies' practices with respect to pricing is a matter that is before a board.

With respect to any change the federal government may be contemplating in the pricing policies at the wellhead, those are matters the Minister of Energy will have to address. That is not within my realm of direct control.

Mr. Bradley: I guess this is the philosophical difference we would have here, and it is indeed a philosophical difference.

Hon. Mr. Elgie: You no doubt want to have five people fighting on the present issues. "Divide and conquer," I think was the phrase Caesar used.

Mr. Bradley: You are trying to sidetrack me. **Hon. Mr. Elgie:** I am trying to explain to the audience what you are doing.

Mr. Bradley: As consumer minister, as a consumer advocate, as the defendant of consumers in Ontario, I would have thought you would have expressed horror at the thought of going to world price, as our Premier (Mr. Davis) did approximately five years ago when there was a suggestion we might go to a world price in oil. I think we see the effect directly on consumers in Ontario. I supported the position then. I think the Premier had the support of the Legislature when he went to the conferences and was against it.

I am now looking to you. The Minister of Energy has his own agenda, as they say nowadays, and the Treasurer is busy defending the federal people, but I would have thought you, as the consumer minister—and I am honestly not trying to play you against the others—

Mr. Cureatz: Oh, no; you would never do that.

Mr. Bradley: No, I would never do that.

Hon. Mr. Elgie: Who would have thought this was a partisan arena we operate in?

Mr. Swart: If we did it would be quite legitimate.

Mr. Bradley: I simply want to know that you, as consumer minister—even if it is behind closed doors; I understand these things when you have friends in Ottawa; we went through that for a number of years—

Mr. Swart: You call them your friends? 12:10 p.m.

Mr. Bradley: In quotations, "my friends" in Ottawa, the albatross, the millstone, or whatever it is. Now that you have the albatross and millstone in Ottawa, I would expect that even if you do it behind closed doors—I would rather you came out publicly—do you plan, as consumer minister, to make representations to your cabinet and ultimately to Ottawa to explain the devastating effect on the Ontario economy and Ontario consumers of going to world price in oil?

I think you are progressive in that party. I know there are not too many progressive people but I think you are. I would have thought you would lead the charge to save the consumers of Ontario. Mr. Swart and I would be side by side and shoulder to shoulder with you if you are prepared to do that.

Hon. Mr. Elgie: As you are carrying me out the door?

Interjections.

Hon. Mr. Elgie: Mr. Chairman, it is a matter that the Treasurer and the Minister of Energy addressed.

Mr. Swart: Do not scare him off.

Hon. Mr. Elgie: The Treasurer indicated he would be meeting with the Minister of Finance this evening. It is not an issue I am prepared to discuss.

Mr. Chairman: Thank you. I think we have heard the questions. Do you have a supplementary?

Mr. Swart: No, I just want to seriously support what the member for St. Catharines (Mr. Bradley) was saying with regard to what we consider the responsibility of the minister in this. The Treasurer is there, but to some extent he is looking at it from a different point of view. I recognize you are part of cabinet but he is looking at it from a different point of view.

He is concerned with the ad valorem revenue and that sort of thing, but you are the consumer minister and a consumer's point of view should be put forward in making that decision.

Hon. Mr. Elgie: The Treasurer acknowledged in the Legislature he is concerned about

the impact on employment, tax load on the consumer and other effects it will have. He has already expressed those concerns. Those are matters that will be dealt with.

Mr. Chairman: Minister, I am sure you understand the critics' views on your responsibilities. Possibly we could now move on. We are still on vote 1601, item 1. Are there any further questions on the main office?

Mr. Bradley: I have one further question on the main office. It comes a little supplementary to this. The minister has kindly replied to me. He does give answers to letters, I must say that. With some ministers, you never see any answers. This minister, even when it is an open letter–some ministers do not reply to open letters and most of them are—is kind enough to reply. If the answer is the one I want, I usually share it with the media anyway.

I received a reply from the minister on gasoline pricing practices in Ontario. Through this practice, we all know one day that in your riding or my riding all prices go up or down at the same time. They are all within one tenth of a cent per litre or something like that. Everybody in the industry says, "That is not price fixing." I have a nice glossy thing from Gulf or some other company which explained what happened. Interestingly enough, your letter sounded very much like the nice advertisement that Gulf or one of the companies put out on this.

Is it really your belief there is any kind of serious competition between these companies? I am talking about the retail price of gas now and not simply price fixing, as everyone in the public believes.

Hon. Mr. Elgie: I can only respond, and I am sure I did to you—

Mr. Bradley: Yes.

Hon. Mr. Elgie: I put it directly to the then minister, and Lawson Hunter reviewed the matter and did not feel there was a competition issue in the particular episode we were talking about. I also remind you that the whole issue of petroleum pricing practices is before the Restrictive Trade Practices Commission right now, so that is an area of competition within the jurisdiction of the federal government. It is under review. They expressed the view with respect to that particular weekend we were talking about it—I forget the date—that competition was not the issue at that time.

Mr. Chairman: Thank you, Minister. Thank you, Mr. Bradley. Shall item 1 carry?

Item 1 agreed to.

Items 2 to 4, inclusive, agreed to.

On item 5, information services:

Mr. Chairman: I believe this is the item Mr. Swart had a few questions on.

Hon. Mr. Elgie: Mr. Chairman, could I ask June Noble to come up?

Mr. Chairman: Yes. Please, Ms. Noble.

Mr. Swart: Mr. Chairman, just briefly, as I look at this in my briefing book it automatically raises a question of why the substantial increases in this budget.

Hon. Mr. Elgie: I am sorry, I missed the beginning.

Mr. Swart: I say if you look at the information services details and the increases that have taken place there, one automatically would raise the question as to why. For instance, if you look from 1982-83, 1983-84, 1984-85, you will see that from 1982-83 to 1983-84 there is an increase of 18 per cent in total and another 8.5 per cent from last year to this year. That is a total compound increase of 28 per cent in two years in information services.

From the asterisk, I would think this year's amount does not include something that was previously under Tourism and Recreation, so I would ask how much additional would have been in there for the Ontario program within this year. Maybe the asterisk is not beside it.

When you look at the next page and look at the work load description, it does not indicate there were those kinds of increases in the work load, in news releases or whatever. In fact, publications distributed are way down from what they were in 1982-83. I would like an explanation. There is a suspicion on our part that sometimes these information services are used to promote the welfare of the party that is in power; not overtly of course. I think it is fair to ask for an explanation of these kinds of increases when the total budget of your ministry does not reflect it.

Hon. Mr. Elgie: This is Dan Rivet, director of finance, systems and administration services branch. Could you respond to those issues?

Mr. Rivet: I think so.

Hon. Mr. Elgie: I am going to ask Mr. Rivet to explain those numbers.

Mr. Rivet: Mr. Chairman, going across the salaries, obviously each year there is a component for cost-of-living increases that are negotiated for staff and awarded for management staff, as well as salary merit increases for performance. There may be a difference in unclassified staff

from one year to the next; I am not able to tell from this. The salaries increases are only relating to awards that are granted through the normal processes.

Mr. Swart: Can I interrupt?

Mr. Rivet: Certainly.

Mr. Swart: If you look at salaries and wages, I assume there has been a substantial number of employees taken on. I can be wrong, but when you go up from \$574,000 to \$681,000 in one year, which is an increase—computed quickly—of 16 or 17 per cent, I do not think that would be just awards.

Mr. Rivet: Mr. Swart, I do not know whether there was a staff number increase. I might have to go back and look at the previous year's manpower reports.

Hon. Mr. Elgie: Do you know that, June?

Ms. Noble: We asked for a bilingual media clerk to deal with the work load that had to do with the bilingual services clerical support.

Hon. Mr. Elgie: Would that account for that difference?

Ms. Noble: It would not be that large a difference.

12:20 p.m.

Mr. Chairman: You seem to have had 29 people working as of March 31, 1984. If you look at Mr. Swart's figure of 1982-83, there is quite a difference. By comparing them, you would think you would have had a lot fewer employees in 1982-83. Would that not be accurate?

Ms. Noble: I believe there were two added in total. One was the support staff on French and the other—I do not understand that, actually.

Mr. Chairman: That would be two added, plus the cost of living for the year for the rest of the employees? That would make up the difference.

Mr. Crosbie: Could I suggest we get the information rather than trying to speculate on it now?

Mr. Chairman: Yes.

Mr. Crosbie: I think there is a clear explanation. We will get the information and have it at the next meeting.

Mr. Swart: It just seems to me there must be a fairly substantial increase in service or advertising, whatever it is, with this kind of boost in the budget. I would like the answer, and I am quite prepared to wait if you will get that for me.

Mr. Rivet: With respect to the increases in supplies and things of that nature, we print brochures in economic order quantities. We do not print every one every year because we have quite a number. There will be a fluctuation over a four-year or five-year period because the supplies may run down in some of the very popular ones, depending on what the issues are, what the school boards are doing and the demands that are made on the ministry to supply more of them.

You could buy a lot in a base year and then they might last for eight or nine months; or you might order late in the year and you have a jump

the next year.

Mr. Crosbie: Mr. Swart, just to clarify the questions you would like comment on: you have asked about the \$112,000 in our current estimates for services, which is not asterisked to show whether or not the Tourism and Recreation portion is in it. We will clarify that; it is not. We will have that when their vote is approved.

Mr. Rivet: The money is voted in that ministry and two accounting entries take place after that. They transfer a budget to us and then charge us roughly that amount as they spend it during the year. For program expenditures we show it as our actual, but we do not know what it will be until it happens.

Mr. Crosbie: Your other question was about the first line of salaries and wages, in which an increase since 1981-82 to the current estimates shows a figure something in excess of \$200,000. We will get you an explanation of that.

Mr. Swart: Yes, there was a large increase last year and another fairly substantial one this year. I want to know where that is going.

Mr. Chairman: Are there any further questions on information services?

Item 5 agreed to.

Items 6 and 7 agreed to.

Vote 1601 agreed to.

On vote 1602, commercial standards program; item 1, securities:

Hon. Mr. Elgie: I think we agreed to go to pensions.

Mr. Chairman: Yes, I just wanted to pass this one before we get to pensions, which is item 2. There being no further questions, shall item 1 carry?

Mr. Swart: I prefer to leave it open for now, if we could. We may want to come back to it. I doubt if Mr. Renwick will be in, but I know he had questions. I would like to look over his notes.

On item 2, pension plans:

Mr. Chairman: I believe you had a few concerns.

Mr. Swart: For the benefit of my colleagues, perhaps I should just say first that I raised this in general terms with the minister. He gave some information, but Mr. Mackenzie does have some specific questions.

Mr. Mackenzie: I apologize for-

Mr. Chairman: Excuse me. Maybe we could have the director for pensions here, Mr. Mackenzie. Ladies, please.

Mr. Mackenzie: I have not had a chance to even pick up the few notes I have, although I do not think I need them, because I have been trying to deal all morning with another major plant closure in my riding that hit us all of a sudden, Canadian Porcelain.

My concern, and the reason I had asked Mr. Swart to alert me when you were on this particular section of the estimates, was simply because of the delay—if that is the word—in what is happening in reform in the private pension area, and to the work of our select committee on pensions of two or three years back. I begin to wonder whether we should have done any of the work at all in view of the fact there was some agreement even a year before that on a private member's resolution of mine in the House—which does not mean anything but it did stress the need for affordability, for earlier vesting, for some central mechanism whereby workers can hang on to their pension plans.

It appeared at the time of the select committee on pensions to be of some importance and urgency. The view we seemed to get from most members of the committee, from the government and even from some private witnesses before us, was that even the private industry recognized the time had come when there had to be some improvements or changes in private pension plans. Even with that kind of expression of urgency and need, I have seen absolutely nothing happen since.

My question of the minister is, very simply, has this no priority now, or are we going to do something about it? Are we no longer concerned with it? We still have the problem with respect to the number of times workers will move and the value of private plans which do not cover a heck of a lot of our work force in Ontario.

It is a general question. It is not specific, but it is a really serious concern and one which in me, at least—and I am trying not to express it—provokes a little bit of anger. I really wonder, after the months we spent on that select committee and the work that was done before it and what I

perceived, maybe wrongly, as a pretty general feeling the time had come for something to be done about it, what the status is at this time.

Hon. Mr. Elgie: I might start off by saying that, as you know, pension issues are divided in this government and that pension policy is in the hands of the Treasurer, while the administration of pension legislation is in this ministry.

I can say quite frankly that the Treasurer sees this pension reform as an urgent issue. He also sees it as an issue about which there should be as much compatibility throughout the country as can be achieved. He prepared a paper, as you know, which put forth his views on pension reform.

There have been several meetings with officials. During the summer there was a meeting of ministers. This month there is to be a further meeting of officials and at the beginning of December there is to be a meeting of ministers. The Treasurer has made it very clear that he views 1985 as the year when he intends to introduce pension reform legislation.

I think he is pursuing it quite vigorously. The approach he has taken is to try to narrow down the number of issues about which there is disagreement. I think there is fairly broad agreement about a number of issues. Certainly at the last meeting some of the issues were resolved, but not all. I think he made it clear that if uniformity cannot be achieved, he hopes for some type of compatibility. In any event, he is prepared to proceed.

That schedule he has under way at the present time; is that not accurate, Mrs. Salamat?

Mrs. Salamat: Yes.

Mr. Mackenzie: The real issue, as we see it—and I recognize there is total disagreement philosophically—is the need for rather vast improvements in the Canada pension plan, the public pension plan.

12:30 p.m.

I understand we are not going to reach agreement in that particular area. What I am wondering, though, is why we have not been able to move with respect to reform of the private plans quicker than we are with respect to vesting and portability. It seems to me they are so fundamental to any continued acceptance of the value of the private insurance industry that there is something wrong when we have not moved sooner on that issue.

Hon. Mr. Elgie: I do not think there has been any disagreement on things like vesting and portability.

Mr. Mackenzie: To go back again, you tell me now that next year we may get something from the Treasurer, but we thought we were going to get something two or three years ago when we came out with that committee report. There was general agreement on those issues a year or two before that when we were debating private members' bills in the House. That is an awfully long time frame.

Hon. Mr. Elgie: I can only reiterate that from our experience, and the process the Treasurer has in place, he is not doing anything to impede its progress. Indeed, he is the one who is pushing it.

You may say the desire to achieve some degree of compatibility throughout the provinces, which is the stumbling block, is not worth pursuing. I frankly do not know the answer to that, but we do know interprovincial problems can arise and have arisen; the Treasurer is striving to minimize those differences between provinces so we do not run into those problems, as I think we did recently. Was there not a pension problem in a Saskatchewan company with some funds here?

Mrs. Salamat: Yes; the plan was registered in Ontario but it covered Saskatchewan employees. The laws were different. We administer Saskatchewan laws on behalf of the employees there. One of the overriding concerns of industry plan sponsors is that there is uniform legislation throughout the country. This is very important for national employers who have employees in all the provinces.

Mr. Mackenzie: Minister, I think you know as well as I do that if we look at some of the provincial governments, if you are waiting for national unanimity you are not going to get it.

Hon. Mr. Elgie: I do not think the Treasurer intends to achieve total unanimity before he moves. Indeed, he has publicly stated that 1985 is the year in which he proposes to introduce pension reforms.

Mr. Mackenzie: I just do not understand who is responsible here. Is the reform of the private pension schemes under the Treasurer as well, or is that your responsibility?

Hon. Mr. Elgie: It is one of those areas I find a bit of an anomaly, that the regulatory and administrative role should be in one ministry and policy in another, but that is the way it is. I think the Treasurer is to be praised for the way he has been pursuing it, because he is pursuing it vigorously. I have no criticism of that. I accept his view that, as Treasurer, he plans on dealing with pension reform in 1985.

Mr. Mackenzie: Do you have any idea as to the time frame in 1985 we are talking about?

Hon. Mr. Elgie: We will just have to ask him, and I have not asked him that recently.

Mr. Mackenzie: So, properly then, questions should be directed to the Treasurer and not to your ministry.

Hon. Mr. Elgie: I cannot give you the answers.

Mr. Mackenzie: So much for this-

Hon. Mr. Elgie: We discussed this last year too, and the anomaly does exist. Maybe it should not, but it does.

Mr. Mackenzie: At what stage of the game, then, do we deal with some of these anomalies that get us into this kind of bind? You have to accept, whether you agree totally or not, that people begin to wonder when you go one, two, three and four years beyond when you think there is some kind of agreement, even in the most modest reforms of the private pension schemes without any real action.

Hon. Mr. Elgie: It is not as if we are all operating in isolation. The Treasurer has included our staff and the chairman of the board of the pension commission in the studies and in the discussions, so we have been part of the process. The process that is under way now and the eventual proposals for reform of pension legislation will come from the Treasurer.

Mr. Mackenzie: Are they likely to come in 1985, as you say, even if he does not reach agreement with the other provinces?

Hon. Mr. Elgie: That is my sense.

Mr. Mackenzie: Are any recommendations the Treasurer brings in likely to deal strictly with the private pension plans?

Hon. Mr. Elgie: I cannot recall all the proposals.

Mrs. Salamat: Yes, they would.

Hon. Mr. Elgie: Primarily a private pension plan.

Mrs. Salamat: Primarily a private pension plan.

Mr. Mackenzie: I did not expect any, but there would be no initiative regarding suggested improvements in the Canada pension plan implementation.

Mr. Chairman: Thank you, Mr. Mackenzie. Are there any further questions on pension plans?

Mr. Elston: I would just like to raise one thing. It is not something I can put my finger on in the time I have had in the critic's role, but

much concern has been expressed that what we have just gone through with the trust companies may very well befall the pension industry. It has been broached to me in those terms and I have not been able to delve any deeper than that, but have you any sense of the fact that it is nearly out of control?

Hon. Mr. Elgie: All I can say is that in 1981 we felt there was a need to take the lead in the area of providing a pension guarantee fund. At that time there were a lot of plant closures, as Mr. Swart and others who were around will recall.

Mr. Swart: There still are.

Hon. Mr. Elgie: Not as many as we were facing in those days. It was because of concerns that there might be some plans that faced contingencies that the pension guarantee fund was introduced. At present, there is concern with respect to funding, by employers or by employers and employees, depending on the nature of the plan. In my remarks I have indicated the proposals the pension commission is considering in its endeavours to try to have more timely information and funding so employees will receive greater protection.

To that extent, we are trying to proceed in areas that minimize the chances of situations that would affect employees in an unfair way, having in mind we already have put in place a guarantee fund which I think in two or three situations has come in to provide a remedy; otherwise employees would have been left in desperate circumstances.

Mr. Crosbie: I was going to suggest there is one aspect of pension funding that creates an inherent problem. On some plans, if you negotiate an improvement you have a 15-year period in which to fund the cost, which means you immediately have an unfunded liability. If you have any significant overhang of that type in a particular plan and there is a substantial reduction in the work force, for economic reasons, the capacity to continue to fund the plan can be put at risk.

We have run into that problem from time to time, and it is one of the issues we are examining.

Mr. Chairman: Any further questions, Mr. Elston?

Mr. Elston: With respect to the services line of the budget it has gone up by \$120,000, it is going to double; I was wondering what the explanation might be.

Mr. Chairman: Pension plan services, \$240,000.

Mr. Crosbie: That is basically work we are doing in improving our computer system. We have a major study—this is one of the things we were talking about earlier—

Mr. Elston: That is one that is going to be used as an example.

Mr. Crosbie: Internally, yes. We are just at the point of completing a feasibility study on the new computer system, to facilitate the manipulation of data and improve our ability to analyse funds and keep on top of reporting follow-ups and that sort of thing.

Mr. Elston: Is this a study that is being attended to by an internal consultant, or on a consultant basis?

Mrs. Salamat: It is an in-house system. It is to be charged back.

Mr. Crosbie: Our own systems people are doing the study; but that branch works on a chargeback, so in effect its budget is paid by the branches that use its services, on the same basis as if it had been an outside agency; except the rates are not quite as high.

12:40 p.m.

Mr. Chairman: Thank you, Mr. Deputy. I just want to remind the members that by one o'clock today we will have five hours and 15 minutes left. I was wondering, if we do not have any further votes, do you wish to complete this one, vote 1602, with the condition that if Mr. Renwick comes back and wants to reopen securities we would do that, or would you like to divide the time now on some of the issues you would like to discuss as we go on?

Mr. Elston: I would like to set up a timetable. I know my friend, Mr. Epp, will want to be here to to address residential tenancies; it really does make more sense if we could schedule ourselves.

Mr. Chairman: What would you like to home in on?

Mr. Swart: Rent review is one topic. I would like to spend perhaps an hour on that.

Mr. Chairman: Would you like to spend an hour on it for yourself?

Mr. Swart: No, I suggest we should allot at least an hour.

Mr. Chairman: At least an hour. Will that suffice, Mr. Epp?

Mr. Elston: One never knows.

Mr. Chairman: I mean more or less.

Mr. Elston: How would it be if we schedule it for an hour or an hour and a half?

Mr. Chairman: Are there any other particular items?

Mr. Swart: I think we should plan on spending at least an hour on the Liquor Licence Board of Ontario and the Liquor Control Board of Ontario.

Mr. Chairman: Would you like to spend any extra time on that, Mr. Elston?

Mr. Elston: No, I think we can work into that.

Mr. Chairman: All right, that is three and a half hours.

Hon. Mr. Elgie: The LCBO is not a voted item here.

Mr. Chairman: The liquor licence board then?

Mr. Swart: The liquor licence program, yes.

Mr. Chairman: Are there any other items you would like to zero in on?

Mr. Swart: I would like to spend a little time—we could maybe get to that today—on the motor vehicle accident claims fund and on business practices.

Mr. Chairman: Vote 1607 would be the liquor licence board.

Mr. Crosbie: Yes, I was mentioning the liquor control board, there is no vote item for the liquor control board.

Mr. Elston: There are a couple of areas which I had raised in my opening remarks, particularly dealing with credit unions and—

Hon. Mr. Elgie: That is financial institutions.

Mr. Elston: –financial institutions, which is coming up.

Hon. Mr. Elgie: And you do not know whether you want to deal with securities. Do you want to do anything with the securities commission?

Mr. Elston: Very briefly.

Hon. Mr. Elgie: Mel, do you want to check with Jim Renwick on that?

Mr. Swart: Yes. I want to check with him.

Hon. Mr. Elgie: Could we agree then that we deal with the securities commission, if there is anything you have first, next Thursday, followed by financial institutions? We may get through the motor vehicle accident claims fund today.

What else might you want to deal with on Thursday, business practices?

Mr. Swart: I do not have anything extensive-

Hon. Mr. Elgie: I think if we schedule securities, financial institutions, business prac-

tices, that should pretty well take up next Thursday.

Mr. Elston: Then we will go to rent review.

Hon. Mr. Elgie: And the Liquor Control Board of Ontario on Friday.

Mr. Chairman: Rent review and the liquor control board on Friday.

Mr. Swart: I am not sure that we will have enough time for them both. Sometimes we only get an hour and 15 minutes on Fridays.

Mr. Chairman: We may have an overlap, but we can do it the following Thursday.

Mr. Swart: Okay.

Mr. Chairman: There will be maybe an hour or so, anyway. With that, we are now on pensions.

Hon. Mr. Elgie: Pensions is passed.

Mr. Chairman: There being no further questions on pensions, shall item 2 carry?

Item 2 agreed to.

Mr. Chairman: We will be looking at financial institutions next Thursday. Now Mr. Swart indicated that he would like to deal with item 4, which is the motor vehicle accident claims fund.

Hon. Mr. Elgie: We do not have the staff here, but we will do our best to help you.

On item 4, motor vehicle accident claims fund:

Mr. Swart: I would like to discuss two aspects of that with the minister. The first is funding.

You will know from the figures that it appears there is going to be a fairly substantial ongoing cost. The figures which have been supplied to me by your ministry indicate that in 1983-84 you paid out \$14.5 million; the year before, \$16.5 million; the year before that, \$15.5 million. It looks as if there will continue to be a rather large payout.

I recognize that some of these payouts are from the years before you had compulsory insurance, but I would not think there are too many of them left at this time.

The revenue you receive from the driver's licence course is about one third of the actual cost. In some ways—I do not know how you do it and that is why I am asking you—it seems rather unjust to be putting that cost on to the good drivers, the people who carry insurance, to pay for those who do not carry insurance.

First, do you have any plans or proposals for revisions of this fund so that unjust levy does not take place? Second, do you have any plans to tighten up on the whole matter of carrying insurance so we do not have 200,000 drivers

around this province who do not have insurance? I know there may not be any terribly easy answer to that.

At present you only check insurance through spot checks. Is there any possibility that insurance might be carried by companies for given periods of time? Renewals would come at the same time of the year for everyone, so it would easier to check. Maybe there would have to be a reporting program so companies must report immediately if drivers drop their insurance.

I presume exhaustive studies have been done elsewhere, where they have had compulsory insurance for much longer periods of time. The system we have at present can be improved; I am not satisfied that it is the best system. Certainly it is not the best for people who are involved in an accident in which someone who does not carry insurance is at fault. The limits and everything else are unsatisfactory. Granted, they may be as high as they are in other places, but certainly not as high as those of the average person who carries insurance on liability. I suppose most people carry \$500,000 or even \$1 million and it costs that much extra.

Those who are involved with these uninsured people are not assured of the same payments they would have if they were involved in an accident in which the person at fault carried his own insurance.

I am rambling, but I think you know my concern in this. I would like to hear your comments on it.

Hon. Mr. Elgie: Could I ask my deputy to start off the discussion on this?

Mr. Crosbie: Mr. Chairman, we are taking a number of initiatives in this area. The member is quite correct in observing that the historical funding of the Motor Vehicle Accident Claims Act will be insufficient to cover the outstanding liabilities. There will be significant shortfalls in that area.

We have taken a number of initiatives. At one time we were hopeful we might be able to roll the motor vehicle accident claims fund into the facility association fund that the industry is operating. That does not appear to be a possible solution.

One of the causes of the call against the motor vehicle accident claims fund was the failure of two general insurers, Pitts Insurance Co. and Cardinal. You will recall that Ontario is unique in Canada in passing legislation to move the liability claims against Cardinal and Pitts into the motor vehicle accident claims fund. There are

some rather significant claims against the fund arising out of that.

To deal with that specific type of problem, Ontario is taking the lead in trying to establish—and I think we are going to be successful—a compensation fund that will have general application to casualty companies. If they fail, there will be another fund to cover it. We will not be faced with having to pick up that kind of loss in the MVAC fund. That is one initiative.

12:50 p.m.

The other initiative is in the area of uninsured and underinsured coverage. As you are probably aware, your own insurance coverage provides coverage against underinsured motorists. That type of coverage is cutting in now and we can see the impact on claims against the motor vehicle accident claims fund. They are reducing and we are looking at ways of improving that type of coverage.

Hon. Mr. Elgie: Excuse me, I thought the only required coverage was uninsured coverage.

Mr. Crosbie: It is the only one required, yes, but we are looking at the underinsured also.

Hon. Mr. Elgie: We are looking at adding underinsured coverage?

Mr. Crosbie: Yes.

Mr. Swart: There is something here with which I may not be familiar. You are saying that under our insurance we have coverage against the uninsured driver.

Hon. Mr. Elgie: That is right.

Mr. Swart: Up to the maximum of our insurance?

Hon. Mr. Elgie: Yes.

Mr. Swart: Is that legislatively required?

Mr. Crosbie: You have an option of going to the limit of your policy and it will apply to third parties. In other words, if I am carrying \$1 million and you are carrying \$200,000 and you are at fault, then I can get coverage under my policy beyond the limits of your policy.

Mr. Swart: Up to the \$1 million?

Mr. Crosbie: Yes.

Mr. Swart: Is that required by law?

Mr. Crosbie: No, I do not think it is.

Hon. Mr. Elgie: If the other driver is uninsured, you are required by law to have uninsured coverage yourself. The issue is underinsurance; there was a court case recently in

which the lower court said "uninsured" meant "underinsured," but I believe that is under appeal. Am I not correct?

Mr. Crosbie: I think so.

Hon. Mr. Elgie: It is under appeal. We are looking at that as a policy issue. I happen to think there should be underinsured coverage as well.

Mr. Swart: If I may interrupt again to make sure I understand; on my car, I carry \$1 million liability.

Hon, Mr. Elgie: Third party and uninsured coverage as well.

Mr. Swart: If I am involved in an accident with someone who does not have insurance, does my own insurance company pay me the difference if the liability amounts to \$700,000?

What I am really asking is, does the law require that any settlement over and above the amount of insurance carried—there would be no insurance carried by the uninsured driver—can reach the limit of my liability insurance? I am not sure whether I am phrasing the question properly, but do I come through clearly?

Hon. Mr. Elgie: Yes.

Mr. Swart: Is that covered by law, or do only some insurance companies provide it and require it to be in your policy?

Mr. Crosbie: I would like to confirm that. I think \$200,000 is covered by law, but beyond the mandatory coverage it is not.

Mr. Swart: It would seem to me there might be some merit in changing the legislation, if it is not covered, to provide that. Quite frankly, that cost is not terribly high, as you well know. For a person who carries \$1 million liability to be left holding the proverbial bag after being clobbered by someone who only carries the absolute minimum, or maybe no insurance at all, does not seem fair.

Mr. Chairman: Excuse me, gentlemen. This is very interesting but I hear the bells ringing and I think we should adjourn at this time. Possibly, Mr. Crosbie, you can have that clarification for us on Thursday.

Mr. Crosbie: Yes.

Mr. Chairman: Thank you very much, gentlemen. We will adjourn now until Thursday, after routine proceedings.

The committee adjourned at 12:54 p.m.

CONTENTS

Friday, November 9, 1984

Ministry administration program:	
Main office	J-441
Information services	J-451
Commercial standards program:	
Securities	J-452
Pension plans	J-452
Motor vehicle accident claims fund	J-456
Adjournment	J-457

SPEAKERS IN THIS ISSUE

Bradley, J. J. (St. Catharines L)

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Elston, M. J. (Huron-Bruce L)

Kolyn, A.; Chairman (Lakeshore PC)

Mackenzie, R. W. (Hamilton East NDP)

Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister

Noble, J., Manager, News and Information Section, Support Services Division

Rivet, D. H., Director, Finance, Systems and Administrative Services Branch

Salamat, G. P., Superintendent of Pensions, Pension Commission of Ontario

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No. J-22

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament

Thursday, November 15, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 15, 1984

The committee met at 3:53 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Mr. Crosbie, you were going to give us a reply from last Friday on vote 1602, item 4, which is in regard to the motor vehicle accident claims fund. I think you also had an answer on communications that you were going to submit to the committee.

On vote 1601, ministry administration program; item 5, information services:

Mr. Crosbie: If I could turn first to information services, page 9 in the briefing book, Mr. Swart was asking for an explanation of an apparently substantial increase in salaries and wages.

The wage increase from 1982-83 to 1983-84 is \$106,000. Basically this reflects coming off a year in which there were a number of vacancies and moving into a year in which the vacancies were picked up and two positions added to the staff. We added a media relations officer and a bilingual clerk in the news and information section because of increased media and public calls coming into the ministry.

For next year there is an additional \$72,000. This is accounted for by the addition of a writer and a communications planner to the staff.

If you care for any further comment on the nature of those positions, I would be glad to outline them.

Mr. Swart: No, I do not think so, except perhaps to say that within a period of restraint, hiring a media person—and I do not know the context of the hiring; whether it was necessary because of the volume of inquiries on consumer matters for a substantial amount of information to be provided. I would not want to be critical unless I actually saw what was being done, but on an overall picture, when we are in a five-per-cent world, this kind of increase seems contradictory.

Mr. Crosbie: I think we can satisfy you on this account. For example, on communications planning, our concern is to get the maximum return on our investment, and this requires tracking news releases when they go out.

Take the diving safety program which the ministry put together and has been running for the past two years, for example. This has been a minor budget item with regard to our costs, but because of the way we have distributed and promoted this program to the media, there have been literally millions of dollars' worth of pickup.

We are trying to determine which information pieces are most effective, and how we can best spend our media dollars. This kind of expenditure covers its costs many times over, by improving our effectiveness in delivering our message.

Mr. Swart: Is this an ongoing position, or is it a one-year contract to do the investigation, and then the fellow moves on?

Mr. Crosbie: No, it is something we have built into the organization to help improve our delivery efforts. Communication is one of the best methods of public education. We think we are doing quite well in this area.

Mr. Swart: Additional media expenditures in a year prior to an election might be construed as having some motive other than just to provide information and ensure it is getting through to the public.

Hon. Mr. Elgie: If you can find an example, give it to me.

Mr. Swart: I will. As you know, I would love to give it to you.

Hon. Mr. Elgie: Do not take a lot of time, because I am not looking forward to your having any trouble finding something, because you will not.

Mr. Chairman: Have you anything more to add?

Mr. Crosbie: Yes, there is one other number— Mr. Swart: Now the minister is making me suspicious.

Hon. Mr. Elgie: That is new?

Mr. Swart: No.

Mr. Crosbie: On the same vote and item, Mr. Swart quite properly drew attention to a figure of \$308,000, under supplies and equipment, which appeared to be a substantial increase over the previous year. There is a setup error in the estimates.

For the first time this year there are figures referred to by asterisks below the years 1983-84, 1982-83 and 1981-82, for the Ontario 20 program. The figure of \$134,000 for the current year was provided ahead of the printing of the estimates. This should have been added to the line for services, making it \$246,800. By mistake it was added to supplies and equipment. That line should read \$174,100, which is comparable to previous years, with allowances for computer equipment we are planning to pay for in the current year.

Item 5 agreed to.

On vote 1602, commercial standards program:

Mr. Chairman: We had agreed to deal with item 1, which is securities, and item 6, which is business practices, and item 3, financial institutions, but before we go on, I would like to pass item 4.

On item 4, motor vehicle accident claims fund:

Hon. Mr. Elgie: Mr. Swart had a question he wanted answered, concerning the value of the compulsory underinsured portion of a motorist's policy.

Mr. Swart: Yes.

Hon. Mr. Elgie: Whether it insures to the level of the other insurance you have, or whether it insures only to the level of the mandatory insurance.

Mr. Crosbie: The requirement in the act takes you only to the \$200,000 mandatory level of standard insurance coverage. Everyone is now covered against an uninsured driver to the extent of \$200,000.

Mr. Swart: Correct.

4 p.m.

Mr. Crosbie: Over and above that, you have the same option, as you do in your insurance, to purchase additional coverage, up to the limit of your policy. If you are carrying \$1 million you can buy an additional \$800,000 coverage, in respect of third parties who may injure you and not carry any insurance or who may not carry more than \$200,000.

Mr. Swart: The simple answer is that even though you carry \$1 million, if you are hit by a person who carries only \$200,000, the maximum liability it gets you—unless you purchase additional insurance—is \$200,000.

Hon. Mr. Elgie: Exactly. And \$200,000 is always mandatory across the board.

Mr. Swart: I am not sure whether that should be looked at further to see whether there would be some reasonable way of working it out, so if you carried that amount of liability yourself it would be applicable if you were involved in an accident with someone else.

Mr. Crosbie: That is how it does work. If, for instance, I am carrying \$1 million coverage and I injure you, you can come against my insurance for \$1 million. If you injure me, and you are carrying only \$200,000, and I am carrying this \$1 million underinsured coverage, then I can collect \$200,000 from you and I can collect \$800,000 from my own insurance company in respect of the injury you caused me.

Mr. Swart: I have a misunderstanding then of what you said. I thought you said the only liability you had was what the other driver carried. Are you saying now that if I carry \$1 million and I am hit by a driver who carries only \$200,000 liability, his insurance company pays the first \$200,000 and my insurance company automatically kicks in without me purchasing any additional insurance?

Mr. Crosbie: Not quite. You are required to have \$200,000 in respect of uninsured drivers, so if the driver who hit you is not insured at all—

Mr. Swart: Yes, I understand.

Mr. Crosbie: –for an additional premium, you could increase that coverage to the same amount as your third-party liability coverage.

Mr. Swart: Yes, but it is not automatic.

Mr. Crosbie: It is not automatic at that point.

Mr. Swart: Unless you purchase it. The situation still exists that if a collision occurs, and the person at fault has only \$200,000 and I have \$1 million liability insurance, and I have damages of \$500,000, I get only \$200,000 unless I sue him. That is what I thought you said the first time, but then you confused me in your second answer.

I wonder if it is worth looking at additional coverage, and the wisdom of it, if a person is insured for that amount of liability, whether his own policy does not make up the difference between what he has and what the other driver has.

The cost of additional liability insurance is very minor, once you get up to \$500,000 and go from there to \$1 million. I think most prudent people would carry that.

Mr. Elston: Certain classes of coverage-

Mr. Crosbie: That is where the problem starts to arise. We are looking at this whole issue of whether we should increase the \$200,000 basic coverage. If you do not increase that coverage, it does not seem logical to say you should compel

your underinsured coverage to be higher than \$200,000. We are reviewing that whole area.

Mr. Swart: Thank you, gentlemen.

Mr. Elston: With respect to someone who is a victim of a hit-and-run accident and the person who hit him is not found and is considered to be uninsured for the purposes of that particular accident, would that hit-and-run victim, if he is just a pedestrian, look to his own insurance coverage first?

Mr. Crosbie: He would go to the motor vehicle accident claims fund.

Mr. Elston: He would go to the MVAC, unless he had certain special coverages through his own policies. If there is private insurance in place to cover accidents like that, the victim would go to the private insurer first and then to the motor vehicle accidents claims fund?

Mr. Crosbie: Yes. Mr. Elston: Okav.

Mr. Swart: I wonder if I could pose this question again. The minister may have answered it fully.

When involved in an accident with an uninsured driver, is it still necessary to sue the motor vehicle accident claims fund to collect? Years ago I know it was. You could not just submit the account, have it investigated, and have it paid, which might be the normal case.

I believe I am right in saying this. This may go back five or 10 years. Something like 25 per cent of the whole fund was used up in paying legal costs.

Hon. Mr. Elgie: It is my impression we changed that the last time we amended the act. Did we not set up a mechanism for resolution, other than by law?

Mr. Thompson: I am Murray Thompson, superintendent of insurance. That original requirement has been amended and removed, except in the case of hit-and-run personal injury claims. Then it is still the rule: there must be a legal determination. In any other matter where an uninsured person is involved in an accident, the fund has the authority to settle the case.

Mr. Swart: In other words, it is handled almost the same as if it were another insurance company?

Mr. Thompson: That is correct.

Mr. Swart: Except for a hit-and-run case. Could you explain why? Is it because you have some concern about the legitimacy of certain hit-and-run accidents? Why could it not be done the same with them?

Are you saying that if it is a hit-and-run accident, the person must sue and have it settled by a court?

Mr. Thompson: There must be a court order. You must appreciate our position. In that case, the fund has no person to contact or to rely on; there is no known defendant in the case. There is no defence to the action.

In practice, in the majority of cases an investigation is carried out. If it is quite clear it is a legitimate claim, minutes of settlement are then filed into court. This is usual; but it does require a court order.

Mr. Swart: Let me be clear on this as I am a nonlegal person. If I were hit by a hit-and-run driver, would I have to go to my lawyer to start a court action for settlement?

Mr. Thompson: Yes, you would.

Mr. Swart: But if the other person involved in the accident was known-in other words, it was a normal accident-would I have to go through that process?

Mr. Thompson: No.

Hon. Mr. Elgie: You would be suing the other person and he could settle it.

Mr. Thompson: Yes.

Mr. Swart: Not necessarily suing, if there is a settlement out of court.

Mr. Chairman: Are there any further questions on item 4?

Mr. Swart: Could I pursue that a little further? I realize there is no defence but there would be many cases where what actually happened would be clear. In those cases, do you still have to start the court action?

Is there no other way of processing it so a person who is the victim of a hit-and-run accident could avoid those kinds of legal costs?

Mr. Thompson: Of course, the costs in the system would be awarded and paid out by the fund over and above the amount of the award itself. This would be over and above the party-and-party costs and the solicitor-client costs. However, it is a safeguard because in most cases there is virtually no known defence. If a person is found on the road and there are no witnesses, it is presumed an automobile caused the accident. It is really only a safeguard to ensure proper payment will be made by the fund.

4:10 p.m.

Hon. Mr. Elgie: I guess we are saying that in cases where it is clear from the available evidence-police reports or whatever-surely we should be thinking of a different mechanism for settling that type of case. We should have this, rather than requiring a formal lawsuit, requiring that a statement of claim, a statement of defence and so forth be filed.

Mr. Thompson: It could be. I would think that would be a discretionary matter.

Hon. Mr. Elgie: You would have to define the discretion.

Mr. Thompson: Yes.

Mr. Swart: If you get a claim I presume you have investigators who do the investigation, find out what witnesses were available and that sort of thing. Could discretion not be exercised by the investigator?

Mr. Thompson: We could certainly make an effort to avoid that by building in that discretion or some type of discretion. In most cases I think there is an inconvenience to the victim. The truth is that where there is a clear-cut case, the victim must retain a lawyer. If the fund wants to settle, a fund lawyer will arrange quickly for minutes of settlement to be filed in court. It is not costly.

Hon. Mr. Elgie: We will explore that.

Mr. Swart: I have one other question in this regard. I am not just talking about a clear-cut case, but if the victim of the hit-and-run driver is awarded a settlement, is it customary that his costs—his lawyer's fees, if he has to bring court action and go to court—are awarded in the settlement?

Mr. Thompson: Yes. There is a provision to pay the party-and-party costs that are awarded to the successful claimant.

Hon. Mr. Elgie: That is for the solicitor-client costs.

Mr. Thompson: There is still a cost to the client, but a great part of it can be taken off and the party-and-party costs awarded and paid out of the fund.

Mr. Swart: I will leave that with the minister to take a look at, because it seems to me there could be a bit of injustice there.

Hon. Mr. Elgie: It would be a matter of explaining the conditions under which the discretion can be utilized.

Item 4 agreed to.

On vote 1602, commercial standards program; item 1, securities:

Hon. Mr. Elgie: I will ask the chairman, Mr. Dey, the vice-chairman and the director to come up.

Mr. Dey: My name is Peter Dey. I am chairman of the Ontario Securities Commission.

Mr. Salter: I am Charles Salter, vice-chairman of the commission.

Mr. Pascutto: I am Ermano Pascutto, director of the commission.

Mr. Elston: Mr. Chairman, with your permission I would like to follow up on the concerns about some of the items that were pointed out by the minister in his opening statement. They dealt with putting the Ontario Securities Commission on the cutting edge of a policy that would allow it to be the best in the jurisdictions having securities commissions.

Mr. Dey, what are your activities with respect to that policy? What types of things are you reviewing for us at this time?

Mr. Dey: The principal issue we are considering at the present time relates to outside involvement in the securities industry. We have three weeks of hearings commencing on Monday, November 19. We will be looking generally at the question of financial institution involvement in the capital markets, nonresident involvement in the capital markets and the adequacy of our regulatory structure.

As the regulatory structure now operates, there are two tiers in the capital markets. There is basically a component of the market that operates pursuant to the exemptions under the Securities Act from the licensing requirements, and there is a component of the market that must be licensed. We are taking a hard look at the former because the activity in the unlicensed market has increased, and we are looking to make recommendations to the government as to whether that development is in the public interest.

That is the principal policy issue. I can list some of the other more conventional policy issues at which we are looking from a securities regulation perspective.

Mr. Swart: Is there any reason to believe there is a shift to the unlicensed section? Is there some danger in this?

Mr. Dey: Mr. Swart, we are looking at the issue, not so much from an investor-protection perspective, but from the perspective of determining the efficacy of the government policy concerning ownership of participants in the securities industry. There are some clear policies of the government as to who can participate in the capital markets.

What has happened is that if you do not need a licence, then you do not come within our regulatory structure directly. Therefore, we do not impose the ownership restrictions. As that component of the market has increased in

importance, we have asked ourselves whether this is a frustration of the government policy.

There is a broader policy issue which is basically the efficiency of the capital markets and who should be involved in providing access to the capital markets. Perhaps our policies are too limited; perhaps they should be expanded; or perhaps they should be made more restrictive. These are questions we are going to ask and on which we will make recommendations to the government.

Mr. Elston: I would like to follow up on this at this point. What is your time frame as to making recommendations after these three weeks of hearings?

Mr. Dey: We feel we will take the balance of the month of December to contemplate the evidence we receive. We have received submissions from approximately 50 interested parties. We have targeted January 31 for making our report to the government.

Mr. Swart: Compared to reviews that have been made, that seems to be pretty rapid.

Mr. Dey: If I may say, I think one of the assets of this government is to have in place a commission like the Ontario Securities Commission which has built-in resources and a structure for gathering information. We hope we can address an issue expeditiously and report on it to the government.

Mr. Elston: What sort of time allocations do you make out of your schedule for policy questions like this? Are you sitting on the three-week hearings?

Mr. Dey: I am sitting on the three-week hearings. Basically, the administration of the commission is the responsibility of the director. He is the chief administrative officer. He applies the legislation and the policies of the commission to the day-to-day developments in the capital markets.

If he applies a policy of the commission or a provision of the legislation and it is not clear how it should be applied because of circumstances which were not envisaged, then the matter will come before the commission. However, the day-to-day administration of the statute is the director's responsibility.

I would say that the chairman of the commission, and the commission generally, have a greater responsibility for making sure the policies and the legislation of the commission and of the Ontario government are responsive to the needs of the market place.

Our overall objective is the efficiency of the capital markets. Therefore, we devote a majority of our time to the development of policy. I refer to this ownership policy, but I could list a number of other areas in which we have been active this year.

4:20 p.m.

We took an initiative concerning the use of restricted shares in the market place. Defined simply, these are common shares without a vote. The commission proposed a policy on an interim basis for dealing with restricted shares and pronounced its final policy in late September. This was a policy that consumed a lot of the commission's time, but we think it is an extremely important policy for developing the confidence of small investors in the market place.

I might add that the restricted-share policy was a policy on which we were able to obtain concurrence from all of the other securities administrators in the country, so that is a national policy.

Another initiative is the development of legislation updating existing legislation regulating takeover bids. We have again worked with the other administrators across the country to update our legislation concerning takeover bids, and we are hoping to have the final form of that legislation leave our hands and be in the government's hands in the near future.

Mr. Elston: Is that study the result of the latest round of fairly high profile takeover bids between the trust companies? Was it First City that got into some really raucous bidding for shares of another company? I have forgotten now exactly what it was.

Mr. Dey: The new legislation is motivated principally by the concern about the existing provision which requires that an offerer or a purchaser of control of a company deal with all the minority shareholders on an equal basis. There is a provision in the statute now which requires him to make a follow-up offer within 180 days of his private purchase of control—

Hon. Mr. Elgie: If there is a premium.

Mr. Dey: –if there is a premium. We support the principle. We think we can improve the mechanics for implementing that principle.

Then there were other housekeeping provisions, largely of a technical nature, that we addressed in the new leglislation.

Mr. Elston: It is really designed to extract some minority shareholders out of the difficulties of having to force the equal treatment?

Mr. Dey: You may be referring to the Turbo acquisition of Merland Resources. There has been a lot of litigation concerning what is a fair follow-up offer. Is it equivalent to what was paid to the majority shareholder?

We have applied a great deal of our resources in the courts into resolving that issue, but ultimately it was settled in the commission offices where we locked up the commission staff, Turbo and other interested parties and said, "Come out when you have an agreement". We locked them up for three days and—

Mr. Elston: It sounds like the Premier (Mr. Davis) talking to his successors.

Hon. Mr. Elgie: I did not sense an agreement on all things coming out of that.

Mr. Elston: Certainly you could sense that after the fact.

I wonder if I might follow up. As I understand it, the director handles everything that comes in that appears to be routine or by the book. If there are some special circumstances that are not covered directly, then there would be a submission to you, as chairman, for a ruling on how to proceed with certain things. Is that what I am to understand?

Mr. Dey: That is generally correct. I would not say the director does only routine things.

Mr. Elston: I certainly do not mean to demean what his duties are, I just mean that special circumstances go beyond the director.

Mr. Dey: That may happen if the commission policies and the legislation do not expressly address the circumstances before the director—if there is a new form of reorganization or if there is some provision in a share some party has put before the commission that raises the director's concerns about equity in the marketplace. If it is in a prospectus, the director may refuse to issue a receipt for the prospectus. This would force the issuer to appeal to the commission and then the commission would address it.

Mr. Elston: What sort of procedure timetable would be set up to handle that appeal? The issuing of a prospectus and others are fairly timely acts, I understand.

Mr. Dey: We rely on our staff to tell us if it is a market-sensitive offering. Some of the issues raised can be very sensitive. Someone sees an opening to do a particular type of financing and he wants to hit it very quickly. In cases such as these, the commission has been known to sit on an issue the same day it is brought to its attention.

On the other hand, if the issue is not market-sensitive, if it is a mutual fund that is going to be around for many years and whether it starts up this week or next week does not matter, then we will take a less expeditious approach.

We try to be very responsive to the needs of the constituency, because ultimately we contribute to the efficiency of the capital markets. Part of this contribution is providing sensitive responses to issuers' requirements.

Mr. Elston: If you get the problem in the morning and discuss it in the afternoon, can you provide an answer at some point in the course of the afternoon's deliberations? It is that quick when you are dealing with the new item's financing arrangements?

Mr. Dey: Yes. There were a couple of government-guaranteed issues where this basically happened. There is an exemption under the statute now for evidence of indebtedness guaranteed by a government. One of the governments came to us with a preferred share and you cannot guarantee a preferred share, as you probably know, but you can provide a support agreement. We were told there was an opportunity to market this.

They did not want to do a prospectus, because of time constraints. They argued that the preferred share with a support agreement was virtually the same as evidence of indebtedness with a government guarantee, and that the financial community was prepared to give it the same credit as they would give a government-guaranteed debt.

This may not have occurred all on the same day, but we may have been alerted about it on a Friday and broke from our regular commission meeting on the following Tuesday to hear it and made a decision that evening. We have the capacity to do this. A quorum of the commission is two. We have nine members, so we can constitute a quorum fairly quickly.

Mr. Elston: Is your participation required to form a quorum?

Mr. Dey: No.

Mr. Elston: So it is any two of the nine members?

Mr. Dey: Any two. Our practice is to try to have one of the commission members who is a lawyer chair the panel. There are four lawyers on the commission: myself, the vice-chairman, commissioner Blaine and commissioner Yakabuchi

Mr. Elston: How market-sensitive the question is dictates how quickly the commission reacts?

Mr. Dey: Yes. The secretary's office provides a weekly report to management that lists all of the applications before the commission and the status of each application. It is broken down into categories to enable us to keep track of every application. The report indicates if the application is in the hands of the staff, if it is with the applicant, or if it is before the commission.

Sometimes, if a particular application that is not market-sensitive is dragging, disclosure of the status of the application induces action. The report also enables the vice-chairman, the director and myself to monitor the status of the

applications.

Mr. Elston: If I may I will go on to a couple of other questions.

How would you rate the Ontario Securities Commission, if you compared it to other jurisdictions? Can you do that with respect to efficiency, policy considerations, in a modest and humble way, rating your own performance? What is the ideal? In your capacity as chairman, have you seen things you would like the commission to pick up?

4:30 p.m.

Mr. Dey: I am sorry?

Mr. Elston: Have you seen policy developments you think would improve the operation of the commission, or a direction you would like to see the commission take?

Mr. Dey: I cannot say that I have seen other commissions go in a direction I envy. I think our commission leads in the development of policy reforms and we have an authorization to increase our resources. This is essential if we are to maintain Ontario's position as the centre of the capital markets in Canada. An effective securities regulator is crucial if the capital markets are to remain centred in Ontario.

When I first came into the office and saw the responsibilities that were thrust on the staff and the members of the commission, one of the first things I worked on, where I picked up where my predecessor left off, was the seeking of government approval for an increase in our staff. The commission is in the process of implementing this at present.

Mr. Elston: You just indicated that you recently had an increased authorization of funds. My information is that the estimates show a decrease of about \$500,000, from \$5,592,000 down to \$5,088,000. Those are rough figures. You are still able, I presume, to undertake an expansion of staff despite the loss of this \$500,000?

Mr. Dey: The increase in staff has yet to be implemented. We have had a reorganization and some changes in senior management.

The previous vice-chairman resigned from the commission in February to go to the Toronto Stock Exchange. One of our part-time commissioners filled this job until the summer and then Mr. Salter was appointed. Mr. Salter's appointment left a vacancy in the chief administrative position. Mr. Pascutto was appointed to fill this post. We did not want to pursue the implementation of Management Board approval for the 23 new positions until the new chief administrative officer was in place.

Mr. Crosbie: If you look at salaries and wages, you will see there is a half-million dollar increase in the 1984-85 estimates over last year. The total budget is down and I believe the chairman might be able to comment on that. There were substantial costs associated with hearings last year that are not anticipated at this time.

Mr. Elston: That is in the services end, which shows a decrease of \$400,000.

Mr. Crosbie: Yes.

Mr. Elston: I understand there is a major policy analysis coming up, a three-week hearing. How many hearings did you hold last year? Did it decrease that amount by some \$400,000? What is the difference?

Mr. Dey: It is difficult to measure in terms of hearings. You have to look at hearing days.

Mr. Elston: Which major policy analyses were you involved in during the last fiscal year?

Mr. Dey: In the current fiscal year?

Mr. Elston: The current year, yes; I am sorry.

Mr. Dey: We have had three public meetings: one on takeover bids, one on—

Interjection.

Mr. Dey: The Green Line Investor Service hearing was completed in September 1983. So, in the current year we have had a one-day meeting on takeover bid legislation. We have had a meeting on the prompt-offering prospectus system, that was also a one-day affair, and we had a two-day meeting on restricted shares, so we had four hearing days in total.

This record is about to be greatly increased. We anticipate having about 14 hearing days coming up in this study of the capital market.

The services also include litigation the commission is engaged in, retaining outside counsel. Some of the litigation in the previous fiscal year

has been settled, so we have not been in court as much as in previous years.

Mr. Elston: Mr. Crosbie may want to add to that.

Mr. Crosbie: Yes, there are questions we were going to return to, but I do not know whether this is the appropriate time. A similar question was asked about where the money for the rent registry in the Residential Tenancy Commission is. What we are faced with is a budgeting process.

In fact, we have served notice on Management Board that the Ontario Securities Commission is engaged in a hearing and, if you will, we have funds earmarked. As part of the constraint controls on ministries, Management Board is reluctant to place money in your budget in the expectation that something may happen. It is not unusual to require a ministry to return when it is in a position to demonstrate what the actual amount needed is. That would be the case here.

If this hearing or other hearings during the year arise requiring more money than the \$580,000 budgeted, Management Board would be in a position, assuming we satisfy them the money is needed, to increase the vote. That is usually what happens.

Mr. Elston: We had actuals of \$800,000 in 1982-83 and actuals of \$940,000 in 1983-84. We had two years of plateau. Now in 1984-85 we are going back to a level which is comparable to the 1981-82 actuals of \$450,000.

Mr. Crosbie: The numbers it would have been interesting to compare are the estimates in 1982-83. I am not sure what they were, but you would probably find them considerably below the \$800,000. The actual is not the amount included in the estimate but the amount actually spent.

Mr. Elston: I understand that. My concern is, what is the point of this committee approving a budget which is almost doubled annually for services for the securities commission? If we went from \$500,000 back up to \$900,000, for instance, what sort of a budgetary analysis are we doing when we anticipate approval of your estimates outside the review by the public?

You are telling us that at any particular time during your operations through the year you can go to Management Board and, as a matter of course, are allowed these extras.

Mr. Crosbie: I would also point out that the supplementary estimates are then brought before the House and the House approves them. It is not entirely—

Mr. Elston: I understand that, but generally speaking we are not able to go through them in a detailed sense. As you know, the pressure to pass supplementary estimates is generally very high and we are not encouraged to examine some of the items as fully as we would like to because of time restrictions.

It is just a concern I have and I expressed it during our Ministry of the Environment estimates as well. At that point, we were reviewing the Ontario Waste Management Corp. estimates of \$5 million and the day before its chairman was given approval for a further \$7 million that did not appear before the committee members. I find it difficult to understand how we operate our financial reviews if we are not told when these applications are being made. It is in that sense.

I guess this is a question to Mr. Dey: are you anticipating an expansion of these services close to the level of 1983-84? Do you see that \$580,000 as a reasonable figure as an actual for 1984-85?

4:40 p.m.

Mr. Dey: I am not quite sure where those actual expenses now stand, but I expect the study we are in the middle of will result in an increase. It is hard for me to say. I know the Green Line Investor Service hearing we held last year was longer and more contentious. The current hearing is more an inquiry, although we do have outside counsel. I am sorry. Maybe one of my staff has a better estimate.

Mr. Elston: The director will handle this routine matter?

Mr. Pascutto: Perhaps I could ask my assistant associate director to come up here.

Mr. Chairman: By all means. While the assistant associate director is coming up, I just want to remind committee members we had scheduled items 6 and 3.

Mr. Elston: I will move on quickly. This is interesting from the standpoint that we have an estimate we are not able to verify.

Mr. Chairman: I understand. I just wanted to draw your attention to the clock. Please carry on.

Mr. Pascutto: Our most recent forecasts for 1984-85 are approximately \$700,000. We project some additional expenditures for the international securities conference which we held earlier this year. Not all the costs of that conference have come in. We expected to finish on budget, but not all the invoices have shown through our expenditures yet.

We also expect some increased costs for the hearings, so we expect the total to be approxi-

mately \$700,000. That figure remains to be adjusted, due to the length of these hearings and the cost of outside counsel.

Mr. Elston: So when we review this we are looking more at \$700,000 than we are at \$580,000. Has there been pressure on the Ontario Securities Commission to pare these figures for the estimates on the understanding that you can return and dip into the extras whenever you need them? Are we involved in some kind of public relations program when we get these estimates book printouts?

I am confused when your staff tells us they are looking at \$700,000 and we have \$580,000 in front of us. That \$120,000 is hard to miss. I want to know why we are dealing with a figure of \$580,000 when you have told us \$700,000 is

appropriate but may be low.

Mr. Crosbie: This goes back to the budgeting process. You must remember these figures were struck last fall, not this year, when it was difficult for the commission or anyone else to anticipate what the costs of the hearings would be.

You could ask, "Why not project last year's expenditures?" The last two years were thought to have been abnormally high and striking a figure of \$580,000 on a trend line of the last two years does look low. The figure is not that much out of line on a trend line going back three years when it was \$458,000.

I would prefer to look at the projection as a good business approach, rather than as public relations. If the commission has only \$700,000 in expenditures anticipated to date for the full year, and we had a \$900,000 figure in theremaybe \$1 million; let us escalate it a bit over the year because last year it was more than the year before—you could quite legitimately be asking, "Why have you got \$300,000 more than you need in that vote?"

It is a difficult estimate and the government allocates its funds 18 months in advance. We are going through our allocation process now.

Mr. Elston: I totally agree it is not an easy process, but these books did not come to us last fall.

Mr. Crosbie: No, but they are based on numbers that were allocated that long ago. This is for the year starting in March.

Mr. Elston: What is our position? We expect Mr. Dey and his people to handle policy decisions and determinations designed to keep the commission in the forefront of this type of activity and we are told by the staff that they are looking at actuals of about \$700,000. You are

asking us to approve only \$580,000. What is the position of the committee members when we are asked to approve this estimate?

If \$700,000 is the item which is projected to be more correct, how many other items are incorrect and how do we correct them? That is our problem when analysing the numbers before us.

I know I have gone on much too long, Mr. Chairman.

Hon. Mr. Elgie: You are saying it would be useful to have the estimate as well as the actuals for the previous years?

Mr. Elston: That may be part of it. My problem is we are told to do what is required this year. The staff have suggested \$700,000 but we are asked to vote them only \$580,000. What is our situation? We vote them \$120,000 less than is required and we come back with a supplementary request which we are never able to analyse? Theoretically, we have the opportunity but, actually, there is very little time to deal with it.

I will leave that question hanging.

Hon. Mr. Elgie: I do not know the answer to it. These things happen in unforeseen ways sometimes. No one foresaw the Green Line Investor Service application a year ago when the budget was being prepared.

Mr. Elston: But something is foreseen at \$700,000 already.

Hon. Mr. Elgie: That is because of what they know is under way. Is that right?

Mr. Pascutto: That is right. We are in the process of planning for next year so we are trying to get the most up-to-date figures we can.

Mr. Elston: I understand that, but we are voting something less than \$700,000.

I will leave it hanging. It is a question that bothers me when we review these. I will let Mr. Swart go ahead.

Mr. Swart: I will be very brief. The increase of the 23 new positions is quite remarkable. Is it due to the new legislation under the Commodity Futures Act? What is the reason for the very substantial increase in numbers of positions? I presume that is over and above the 102?

Mr. Dey: That is correct. That 23 basically comprises two groups. One group was recommended in a management report on manpower needs prepared for the commission in 1982. The balance also came out of that report but there were questions we had to answer with respect to that.

We propose to have an office of the general counsel, who will be the chief legal adviser to the commission staff. The commission has a legal adviser and the question was asked, "Are you developing two legal resources in tandem when one would do?" We had to point out the distinction between the commission and the commission staff. The commission acts in a quasi-judicial capacity while the staff generally appears before the commission as one of the parties to a proceeding. So they need their own legal resources.

4:50 p.m.

That is an example of the issues we had to address before we added positions.

The private sector has been very generous with the Ontario Securities Commission over the last couple of years. We have people from the private sector on loan to us. They receive some training and we get the benefit of a keen, young lawyer, investment dealer or accountant, anxious to learn about the commission. We will reduce our dependency upon the private sector by this increased staff complement.

We will be adding such basic things as a library. We have a library, but it is only a pile of books. We need someone who will take responsibility for it. In my office, we need someone to deal with the media. The media is interested in the commission. We get three or four calls a day and it can be tremendously time-consuming if the chairman, vice-chairman or director is dealing with the media.

On a more conventional basis, we are adding to our investigation staff. We will have a senior investigation counsel. We are also adding an investigator. We are adding, in the corporate finance area, a financial analyst who will look at the broader implications of new corporate finance products. We are adding a lawyer to the corporate finance staff and we are adding a number of clerical support staff.

I talked earlier about the importance of the commission responding in an expeditious fashion to market-sensitive requirements. Our staff does that and they pride themselves in it. If you respond at 7 p.m. some night, however, and cannot get the letter typed until 10 a.m. three days later, you have lost the whole purpose of your commitment to respond in a market-sensitive way.

Mr. Elston: I should get you to speak to the Board of Internal Economy on behalf of some back-bench members of the Legislative Assembly.

Mr. Dey: Those are the kinds of increases we are receiving.

Mr. Swart: That raises additional questions. Did you previously have people supplied and paid for by the private sector, the same sector you are servicing?

Mr. Dey: No. I will tell you precisely what we have done. We have had positions in corporate finance, investigation and a position in the legal adviser's office. In the legal adviser's office we have had a lawyer in corporate finance, a lawyer, an accountant and an investment dealer. In enforcement we have had a lawyer and an accountant.

We have had an arrangement with the firms that provide these people. The firm thinks it is an opportunity to train somebody who is relatively junior and the government pays a salary to these people. We do not pay their full private sector salary, but we pay a portion of it. The balance of the salary is decided between the private sector employer and the person supplied.

Mr. Swart: They come to you for a period of time and then go back to the same employer. Is that right?

Mr. Dey: Yes. I assume the employer wants them to return because they have had this experience.

Mr. Swart: This is probably very innocent, but could there not be a conflict of interest in some cases?

Mr. Dey: There could be, but we are very conscious of that issue. It seldom arises, but say a lawyer from a law firm is representing a particular client on an issue. If that firm happened to have a lawyer rotating through our commission, we would not assign him to that matter. That has not been a practical problem. We are conscious of it and we address it as it arises.

Mr. Swart: I am not close enough to it to contradict you. It just seems there could be a problem.

Mr. Dey: I do not disagree.

Mr. Swart: That could be a very real conflict of interest, when you are required to be regulating, policing to some extent, and inspecting those firms. When someone is being paid in part by a firm at the same time you are regulating and policing that firm it would seem to me to open up that possibility. It could leave that impression if any problem arose. It surely does not leave the impression of a total arm's-length relationship. I think you know exactly what I mean.

The only other question I have is just for information purposes. The number of industry

registrants seems to have increased quite remarkably from 1982-83 to 1983-84. Is this because of a new class of registrants or is it just that kind of increase? I am looking at page 26 of the estimates.

Mr. Dey: I think that was probably a result of the market improving in late 1982-83, and doubtless that attracted more people to the industry.

Mr. Swart: I can see more business as the market improved, but this seems to be quite a remarkable increase in the number of registrants.

Mr. Dey: I think there is great interest in the financial services industry from people choosing a career.

Mr. Elston: When will you be making your request for supplementary funding? When is that anticipated by the minister? It appears in this case there will be a request for supplementary funds.

Mr. Crosbie: I was just asking if Mr. Rivet could advise us when this would normally go forward.

Mr. Swart: If some other section of the ministry is down, do you not balance it off? It is only when you need total additional funding that you go back for supplementary funding.

Mr. Crosbie: That is correct. Before we would get additional money in this vote to the securities commission, we would have to demonstrate that all the money in the vote is required.

For example, if there were a delay in recruiting and you did not need all the \$3.6 million allowed for salaries and wages, there is a process within Management Board whereby that money can be moved to another item within a vote. If, for argument's sake, there was a saving of \$120,000 in salaries, it could be moved down to take care of the \$700,000 figure and then there would not be—

Mr. Elston: So there could be a delay in processing the number of staff that had been approved? For instance, if there was a feeling that the \$120,000 extra, which is now known to be needed for services, is not available from other areas?

Mr. Crosbie: I have to speak in a hypothetical sense, because I have no idea what the exact timetable would be. However, in a year we are constrained—as has happened frequently in recent years—we generally have to make those sort of judgements. How do we constrain the budget that was approved? It may be through the process of delaying recruiting of additional staff, slowing down programs, not completing some project or delaying the start of new projects. There is a

whole range of devices to limit the rate of expenditure.

Mr. Chairman: Thank you, Mr. Crosbie. Mr. Rivet, could you—

Mr. Rivet: I do not think I could make it any clearer than the deputy has already done.

Hon. Mr. Elgie: The question was, if you were going to go for any supplementary estimates, when would you anticipate doing it?

5 p.m.

Mr. Rivet: We would not go for them until we were in a position where the vote was almost totally exhausted, because supplementary estimates would not be approved until the cash was gone, or nearly gone. We would work with Management Board to do the scheduling and take its advice on the timing, but typically it would be in February, unless we needed it sooner.

Mr. Swart: That would be done by order in council.

Hon. Mr. Elgie: Anything further?

Mr. Elston: Where do you think you are overfunded?

Hon. Mr. Elgie: That has not been a position an incoming or outgoing chairman has ever put to me.

Mr. Elston: I understand that. I will just leave that one hanging.

Hon. Mr. Elgie: Let us leave it hanging.

When I became minister, that certainly was not the problem. The problem seemed to be a shortage of staff and funding. We set about in 1982, under the former chairman, and under the present chairman, to redress that balance so the commission could continue to play its role as a leading securities regulator.

Mr. Chairman: Thank you, and thank you to all the witnesses for being here. There being no further questions on securities, shall item 1 carry?

Item 1 agreed to.

On item 6, business practices:

Hon. Mr. Elgie: Mr. Simpson, Mr. Mitchell, Mr. Abrams.

Mr. Chairman: Anyone else? Mr. Mitchell, would you please sit in the front. Mr. Simpson, you will sit by the minister, and please identify yourselves for the record, with your positions.

Mr. Simpson: My name is Bob Simpson, executive director of business practices.

Mr. D. L. Mitchell: David Mitchell, director, investigation and enforcement, business practices division.

Mr. Abrams: Alan Abrams, registrar of motor vehicle dealers and salesmen.

Mr. Chairman: Thank you, gentlemen. We can open with questions.

Mr. Swart: There is one company I want to question you about, but first, I would like to compliment Mr. Simpson and his staff. They have thoroughly examined a number of matters I have brought to their attention over the last year. I may not always have been happy with the outcome but I believe the cases were handled efficiently and I want to compliment them.

Is the Vic Tanny situation dead? It is my understanding Mr. Alex Funston, the man who had the franchise for a number of Vic Tanny operations, has surfaced. I have had calls concerning Vic Tanny's establishments. One person had paid \$1,000 and another had paid some money. Is any money there and what is the situation with regard to Vic Tanny?

I realize there is a division of responsibility to take action. From your perspective, I would like to know what the situation is with regard to the franchises, at least, that Alex Funston had. Do you have any information? Is it a totally dead issue?

Mr. Simpson: I have some awareness of it. Perhaps Mr. Mitchell has more recent information

Mr. D. L. Mitchell: Vic Tanny, as we once knew it, is probably dead. A number of installations have been taken over by two gentlemen in the Toronto area and they are known as Super Fitness Centres Inc.

When Funston's operations—St. Catharines, two in Hamilton, Burlington, Kitchener—went down, there was no money. He was charged criminally for taking money for one metallation in Hamilton which never opened. I do not think he applied for a building permit to build the installation. That resulted in the criminal charges he is now facing.

To my knowledge, there is no money for anyone. It is gone. I do not think you will see the Vic Tanny flag flying around here again for that reason. The other operations here in Toronto did change their name. I think they still pay a royalty to Vic Tanny but they fly a different flag.

Mr. Swart: In the case of the franchises held by–Mr. Alex Funston, is that right?

Mr. D. L. Mitchell: Funston, yes.

Mr. Swart: Has the investigation by the business practices division been thorough to the extent that you are satisfied no money is there? Was that money used, and would it be a waste of

time for anyone to bring action to recover any of it?

Mr. D. L. Mitchell: Yes, there was sufficient debt on whatever assets Alex Funston had. I believe he does not have either money or assets at this stage.

Vic Tanny sold memberships too cheaply and sold too many of them. In the St. Catharines situation there were something like 13,000 members, which is ridiculous. The installation can never handle that many people. If they decided to show up on the same night, they would be lined up to Welland.

It is one of those things where they sold cheaply and oversold. They did have a reasonable installation and it was expensive, but it was badly run.

Mr. Swart: You may not want to answer this for obvious reasons. In the operation of the St. Catharines installation and perhaps the others too, are you satisfied there was no transfer of money, any skimming off or anything of that nature? The money was just not there?

Mr. D. L. Mitchell: The money was not there. The cost of operation exceeded money coming in. They had heavy selling programs to sign new members and to sell current members different styles of memberships, but we are satisfied there is no money.

Mr. Swart: The fact they oversold should have brought in more money.

Mr. D. L. Mitchell: That is true. That is what happened initially. The type of service they offered was worth a lot more than they asked for it. Some of the installations were well laid out and well-equipped and would be worth two or three times the fee they were asking for membership.

Mr. Swart: Can you tell me what kind of investigation you did or was done for your ministry to satisfy yourselves this is the situation?

Mr. D. L. Mitchell: Yes, I committed two investigators to approximately seven months of investigating all the Vic Tanny shops. There was also one in London which went down, but it did not belong to Funston.

They did a fair examination. They had access to books and records. They, of course, worked with the Hamilton-Wentworth regional police on the ones in Hamilton. To the best of my knowledge, there just is no money.

Mr. Swart: That satisfies me, Mr. Chairman. I ask the minister if there is any legislation or regulation contemplated, whatever is neces-

sary-maybe this has already been done; it may have gone by me-to limit the sort of advance payments a company like this can charge? The lifetime memberships at Vic Tanny's were \$1,000. I think people paid their money in good faith. Many people found six months afterwards their lifetime was up. Have limitations on these kind of sales been explored?

5:10 p.m.

Hon. Mr. Elgie: As I mentioned earlier, this is just one example of a prepaid service or commodity that is available. There are many other types of prepaid services. We discussed what the best approach might be and decided this is a matter the Ontario Law Reform Commission might look at. That was eventually what happened to it, Mr. Simpson?

Mr. Simpson: In terms of prepaid schemes, we are quite satisfied that virtually every major prepayment situation leading to exposure of the public in Ontario has been taken care of. They have either gone through our compensation funds or are under study by the Ontario Law Reform Commission. That would certainly be the case with land-related things, long-term leases and things like that.

Smaller prepaids, such as Vic Tanny's, are in an area we keep under constant monitoring because it tends to go in cycles. Those industries, health studios and things like that, are enjoying something of a resurgence now and a number of them seem to be well-managed and quite solid. There are times when they do not do well and that is a little hard to predict.

There are many prepayment situations. You give people who tend gardens and swimming pools \$100 for the season and they visit only two or three times to take care of the lawn. There are small amounts of money involved.

We have had great difficulty contemplating a regulatory regime, laws if you will, to govern this kind of thing, which would be reasonable to enact and administered with ease.

You contemplate things like trust accounts. They are only as good as the honesty of the person who has the money in the bank at the time. If you contemplate prepayment limits, you get into issues concerning the size and amount and how do you know they will take care of it?

Mr. Elston: Sounds like loan and trust supervision a couple of years ago.

Hon. Mr. Elgie: It is entirely different.

Mr. Simpson: There are options. You could consider trust accounting. You could consider limiting the amounts of money put up. You could

consider pay-as-you-go legislation or that sort of thing.

It is still, in our opinion, very difficult to contemplate a regulatory regime which would pick up all the situations and not hurt or impact adversely on the little guy who is in a prepayment situation, a guy who has never hurt anyone in his business activity and never would.

You would find it difficult to figure out a way that would not entail as much difficulty in supervision as it would the risk of potential consumer loss. It is still only as good as the person who is actually getting the cash in his hands.

Mr. Swart: I realize policing these things is difficult, but there are people who are hurt rather badly on some of them.

Have you looked at other jurisdictions, elsewhere in Canada or in the United States, for example? I say the United States because our system is more closely related to theirs than to the European system. In Europe, there are regulations regarding the prepayment of these kind of services. Do you know of any similar situations? Have there been studies made in other jurisdictions?

Mr. Simpson: I have to speak from recollection, so bear with me. Some years ago, British Columbia, like us, went through a period of concern about dance studios, or places like Vic Tanny's. They enacted things in their Consumer Protection Act which they never proclaimed. On reflection, they decided that they too had some problems with enforcement and actual implementation. I believe that is the case.

Quebec has tackled dance studios and health studios specifically. In one case they came up with a bonding type of approach, but they found, the first time they had a failure, the bond was far short of the actual losses.

Perhaps Mr. Mitchell could add to what I have said or clarify it, but those are the two initiatives in Canada that I recall at the moment.

Mr. Swart: What about in the United States? They are often somewhat ahead of Canada in these things.

Mr. Simpson: On an impromptu basis, I cannot recall anything in the United States.

Mr. D. L. Mitchell: I cannot either, although I did hear California had something in place. I am not familiar enough with it to comment.

Mr. Swart: Is it possible to get such information from other jurisdictions? I do not suppose there is any central clearing house.

The Vic Tanny situation shows there is a real problem. You talked about 13,000 people in the St. Catharines area. They had various types of agreements. Some had paid \$200 down and others had paid \$1,000. A substantial number of people got hurt and lost up to \$1,000.

I am not being critical of the ministry for not having the information. I do not have it myself. I think the minister should know whether other jurisdictions have legislation which is working

satifactorily.

Would the minister see if we could get that information? I would like to know. I could, of course, try to ferret this out myself but you have more opportunity than I do as an opposition member.

I complimented the minister earlier on the compensation plans that are now in effect for a number of businesses. I would like to know if this is another area in which we can provide reasonable protection. I would like to know from other jurisdictions if there is something that works.

Hon. Mr. Elgie: I think that is reasonable. We could explore that problem and get some comparative information.

Mr. Swart: Find out if there is something effective in the United States, perhaps?

Hon. Mr. Elgie: I think in Quebec there is a time limit on the prepayment. You can prepay only for one year or two years.

Mr. Simpson: My understanding is that they have dealt with different things in different ways. I was venturing as far as I dare with what I know right now. I would not contradict what you said.

Hon. Mr. Elgie: We will explore that.

Mr. Swart: Could you prepare a report on this? I am not asking for a comprehensive, three-or four-book report, I am thinking of a bare outline of what jurisdictions in the United States have done. Larger states like New York or California may have done something that protects people from such losses. Could you submit a copy of that report to the opposition parties and critics?

Hon. Mr. Elgie: We should see, first, what kind of difficulty we will have getting information and get back to you. If we are not having difficulty, certainly we can explore some way it could have broader distribution.

Mr. Swart: Could you get back to the opposition members with the results?

5:20 p.m.

Mr. Simpson: I do not want you to get the idea we are unfamiliar with what has happened in the

United States. I say with considerable conviction it is a state thing. Because we are aware of the investigative activity they carry on, I can say they are very much like us. They tend to use the general trade practice type of legislation to deal with these kinds of schemes.

Even in a very small state we frequently see its attorney general taking action against somebody, much as we have in the past, for misleading advertising, high-pressure selling and things such as that.

That is the way they tend to do it in the United States, just like us, using the general-purpose unfair trade practices statutes, rather than enacting specific, special-purpose kinds of things. We would be glad to canvass the thing again, recheck and catch up on our knowledge of what is happening.

Mr. Chairman: Anything further, Mr. Swart?

Mr. Swart: Perhaps related to this I could ask the minister or some of the staff to elaborate on the whole question of franchises. Since I have been a member I have had numbers of franchisees—is that the correct name of the person who gets the franchise from the company?—who have been ripped off. Are there any regulations or legislation contemplated with regard to that?

I think my colleague Ed Philip tabled a private member's bill on this in the Legislature at some point, and I think the bill was modelled after legislation in other jurisdictions. I am wondering what your attitude is towards this matter.

Hon. Mr. Elgie: Yes, we are contemplating proposing some protective franchising legislation to our colleagues. As you know there is a variety of patterns one can follow. One is the very elaborate securities commission type of pattern. The other is basically an information or disclosure pattern, with some cooling-off period, some requirements as to certain things the parties must look at and certain financial information that one must look at.

That is the approach I favour; I know that is not the approach Ed Philip favoured in the private member's bill. That is something I hope to be taking before my colleagues very shortly.

Mr. Swart: I am not sure whether the minister wants to elaborate-perhaps not-any more than that.

Hon. Mr. Elgie: Not until I have been before my colleagues with it, discussed it and got their approval.

Mr. Elston: Mr. Chairman, I have two items. The first deals again with the services section under vote 1602, item 6.

The actual expenditure for 1983-84 was roughly \$1,072,000 and the estimate for 1984-85 is roughly \$426,000. The total vote is reduced almost exactly the same amount over last year, that is, about \$600,000. You might comment on how accurate the \$426,000 estimate is with respect to services this time, and why.

Hon. Mr. Elgie: You are breaking new ground. We are not used to being asked questions about estimates.

Mr. Elston: My second one is on money, too.

Hon. Mr. Elgie: This is a new pattern.

Mr. Elston: Well, \$600,000-

Hon. Mr. Elgie: No, I think it is good.

Mr. Chairman: We must get some financial expertise.

Mr. Elston: It must mean you are either not doing something or you have finished doing something so thoroughly that the whole business has gone out of existence.

Hon. Mr. Elgie: I commend you for asking those questions.

Mr. Elston: Well, who has the answers?

Mr. Simpson: I am going to have to find out. You took me by surprise, too. Over the years it has been atypical to have talked about numbers.

I can give you the picture in our division—the staffing, the services, the pens and pencils, the computers—nothing has changed in the profile of the division. It has not gone up, down or otherwise. I believe at one time some of our numbers changed. Mr. Rivet may be helpful on that. Sometimes we have a lot of bonds, cancellations and things such as that, and the numbers go up and down.

Hon. Mr. Elgie: This is under services, though.

Mr. Elston: Yes. Forfeitures are up just slightly over last year, but this is services, and it is less than you actually spent in 1981-82. Are we looking at more simple measures?

Hon. Mr. Elgie: You will have to get used to this new role, Dan. You will have to answer questions about the material that is down there.

Mr. Elston: I am just wondering whether we are going to get more supplementaries.

Mr. Chairman: Not necessarily.

Mr. Elston: This also deals with the question of how you people put it together and what the process in this committee is all about.

Mr. Rivet: Like Mr. Simpson, I would rather go and look at some real records, but I believe the drop in services relates to the fact that we have

had more than a couple years of heavy investment in developing the computer system. That development process has ended or has tailed off dramatically and we are now talking about just maintaining it.

Mr. Elston: I see. So you do not anticipate—that is unfair.

Mr. Rivet: Yes, it is unfair.

Mr. Elston: Mr. Rivet may want to look at something and provide a little note or whatever, commenting on what the extraordinary expenses were from those previous years.

Mr. Rivet: It is easy to go back and look at what is not recurring this year.

Mr. Elston: That is fair. I do not expect you to guess at it.

Mr. Rivet: With respect to forecasting to the end of the year, none of us can do that.

Mr. Elston: The second question involves transfer payments under that section. You have \$1,000 down for investor compensation. This deals with the Re-Mor section. If you turn to page 43, item 6, investor compensation, there is not a single amount allocated on page 43. Yet we have \$1,000 indicated. Whose petty cash fund are you setting up here?

Hon. Mr. Elgie: It is a line item that is left open.

Mr. Elston: Why do you not allocate it to something here?

Hon. Mr. Elgie: The Re-Mor compensation program was completed. It was a line item, which has been kept open.

Mr. Elston: I would have thought you would have put it somewhere. So this \$1,000 will be eligible for transfer somewhere else?

Hon. Mr. Elgie: That keeps the line item open.

Mr. Elston: Okay. Why does it have to be \$1,000 rather than something else?

Hon. Mr. Elgie: One dollar?

Mr. Elston: Yes. That is what is done in all other legal situations. You have a line opened by \$1 rather than \$1,000. I presume this \$1,000, once voted, is available for movement within the business practices section, if I am not mistaken.

Hon. Mr. Elgie: Yes, it can be moved one way or the other.

Mr. Chairman: Thank you, Mr. Elston. Are there any further questions on item 6?

Mr. Swart: I wonder if I could ask a question.

Mr. Chairman: Yes, certainly you can.

Mr. Swart: With regard to the grant to the Consumers' Association of Canada, on page 41, under transfer payments, is that a grant made without strings attached, to carry on general work, or is the association expected to—

Hon. Mr. Elgie: There are no strings attached. It is a sustaining grant and an additional amount was provided to the association for travel and other expenses of attending the annual meeting of superintendents of insurance, so the consumers would have some input into that meeting.

Mr. Chairman: There being no further questions on business practices, shall item 6 carry?

Item 6 agreed to.

Mr. Chairman: We were going to try to deal with item 3. Do you want to proceed with that or should we delay it until next Wednesday?

Interjection: Or tomorrow.

Mr. Chairman: Or tomorrow, but I hope we are dealing tomorrow with rent review and the Liquor Control Board of Ontario.

Mr. Swart: Are you talking about financial institutions?

Mr. Chairman: We were going to deal with financial institutions today, Mel. Do we have time? We have to leave here inside of 15 minutes. Will that be adequate for you, gentlemen, or shall we defer it?

Mr. Elston: I certainly have more questions. I think we could spend more time on it than 15 minutes.

Hon. Mr. Elgie: I think we should make use of the people who have spent the afternoon here, while they are here, to get through whatever we can.

Mr. Chairman: Since we have asked the people to be here, let us proceed for as much time as we have.

On item 3, financial institutions:

Hon. Mr. Elgie: Could I ask Mr. McIntyre, Mr. Thompson and Mr. Robins to come up here?

Mr. Chairman: Gentlemen, for the record, would you please state your names and your positions?

Mr. McIntyre: I am George McIntyre, assistant deputy minister of financial institutions.

Mr. Thompson: Murray Thompson, superintendent of insurance.

5:30 p.m.

Mr. Robins: Tom Robins, director of credit unions and co-operatives.

Mr. Chairman: All right, gentlemen, we are on item 3. Mr. Elston, do you have a few questions?

Mr. Elston: Mr. Chairman, I will just go to credit unions, if that is all right with everyone.

Mr. Robins, I appreciate seeing you here. In my opening remarks I had specifically requested that you be here because I have some concern that, after the legislation that was passed in June 1983, we have not seen everything fully proclaimed. Perhaps you might provide us with some information about what your feelings are about that legislative situation and whether or not it is causing you any particular difficulties at this stage.

Mr. Robins: Mr. Chairman, two or three sections of the act are to be proclaimed. One relates to declarations of conflicts of interest of employees and, more specifically, of directors. We hope these will be proclaimed at the time the first sets of regulations are filed, which should be towards the end of November or early December.

Mr. Elston: Would you speak up? I cannot hear you.

Mr. Robins: The majority of the sections that do require proclamation, the major ones—first, the conflict of interest section; second, the section related to liquidity reserves, and those are the two major ones; and third, the one on assets and liabilities matching—all relate to regulations. These regulations, we hope, will be filed around the end of November or possibly later, in December, depending on the regulations counsel. But no, they have not been creating any major problem or delays.

Hon. Mr. Elgie: The delay is because we have a regulations committee made up of representatives of the credit union movement itself, as well as of government, that is meeting and trying to agree on regulations that would allow the implementation of those particular sections.

Mr. Elston: But you are at a stage now where agreement is at hand?

Mr. Robins: Agreement has been reached.

Mr. Elston: Agreement has been reached?

Mr. Robins: Agreement has basically been reached. When you are dealing with 920 credit unions and caisses populaires, obviously there are going to be some differences of opinion. But the feeling of the majority is that, yes, the regulations meet most of the problems.

Mr. Elston: Perhaps you can indicate to us what your role has been in monitoring the credit unions in a deficit position. Can you bring us up

to date on how many credit unions are in a deficit position at this particular time?

Mr. Robins: There are really three parts to that. First, up until June 1983 the Ontario Share and Deposit Insurance Corp. had the responsibility of monitoring those deficit credit unions and in a number of cases actually administering them under the provisions of the act. They are still doing that in a number of instances.

After the legislation, one of the first sections that was proclaimed related to stabilization funds, and two of the three leagues have established those stabilization funds or, in respect to the Credit Union Central of Ontario, a loss-prevention rehabilitation service, which is associated with a stabilization fund, and those stabilization funds are in actual fact administering the credit unions in deficit.

I will refer to the statistics. There are roughly 100 with some sort of deficit, but of that 100 or so something like 60 are running with in-year surpluses; so the number of those with some form of problem I have really reduced to about 55-those, that is, that both have deficits and are continuing to run losses—and they are the ones the leagues are tackling first.

Mr. Elston: How many are under the direction of the Central at this time?

Mr. Robins: I believe they have been running administration agreements, and I think they have 40 of them.

Mr. Elston: And OSDIC has the other 15 or whatever?

Mr. Robins: OSDIC has, in the majority of cases, handed over the administration to the leagues under one of the sections of the act that permits them to do so.

Mr. Elston: I thought I understood you to say that in some instances OSDIC is still involved with the monitoring of—

Hon. Mr. Elgie: OSDIC is still involved.

Mr. Elston: How many would that be?

Mr. Robins: There are probably three or four. There is one in Belle River and there is a second one, the Caisse Populaire Windsor Ltee., for instance. But the others I could not give you offhand.

Mr. Elston: So they are pretty well out of it, for all intents and purposes. Can you describe your role in the monitoring of these credit unions through the Credit Union Central?

Mr. Robins: The act is in two parts. Prior to 1983 the responsibility was, and remains to be, to perform financial evaluations. It determines

whether, from the information filed, there has been any form of contravention of the act. On the financial side, it determines if the credit union is financially sound. That is important from the point of view of declaring dividends. If a credit union fails to meet a solvency test, they cannot declare dividends to their members.

Subsequent to the legislation in 1983, there was an expansion of responsibilities which basically relate to financial standards. The regulations mentioned earlier go a long way in resolving the types of standards not included in the 1976 act, such as the levels of reserves, retained earnings, assets, liabilities, quality of reserves, types of investments and so on.

Mr. Elston: Do you believe we are at a stage where we still have a public sense of respectability for the credit unions and the confidence of their users?

Mr. Robins: Confidence is probably higher now than it was two or three years ago. Up until 1981 or 1982, for a period of a couple of years, there had been a decline in assets. From 1982 onwards there has been a significant increase. In fact, last year, if I remember correctly, there was something like a 13 per cent increase in the assets. They increased from something like \$5.6 billion to the current \$6.3 billion.

On the basis of asset growth, there has been a very significant increase in confidence. Although the problems were publicized in the press, in Ontario and in other provinces, there has been no drop in activity. The members have supported their system.

Mr. Elston: Perhaps I could move to the impact of the Lake Rosseau Village Inn matter on the Toronto Board of Education Staff Credit Union Ltd...

I understand when this took place, the credit union was being monitored by OSDIC.

Mr. Robins: Yes, they had a small impairment, about \$200,000 I think.

Mr. Elston: I understand that had gone on to Central and it was then that all the matters surrounding Lake Rosseau came to light.

What has Central done to benefit from the lessons they have learned with the Rosseau Village Inn? Have they learned any lessons at all?

Hon. Mr. Elgie: Let us not forget there are lawsuits going on. I am not trying to impede your questioning.

Mr. Elston: No, if it is too sensitive, I would suggest there might be something general said, but I understand the situation.

Hon. Mr. Elgie: Central has commenced several lawsuits against several parties.

Mr. Elston: Can we comment then on the monitoring function and how it—

Mr. Swart: The last question seemed perfectly in order. It was not a specific question.

Hon. Mr. Elgie: But it requires a conclusion on what was wrong. I am not trying to be obstructive. It requires that you conclude what was wrong and whether something needed to be corrected.

5:40 p.m.

Whether there was or was not will, of course, be a matter that will be before the courts. I do not think it is fair to Mr. Robins, nor to the action that Credit Union Central of Ontario has taken.

Mr. Elston: Have there been any changes in monitoring policy with respect to the way Central would monitor credit unions at this stage?

Mr. Robins: Possibly I could answer it this way. Just before the time of the Toronto board matter, and as a result of the June 1983 legislation, the branch changed its approach to the monitoring process we had started. Because of the type of things going on in other areas and the information coming through, we started to introduce what we termed internally mini-examinations.

Under the old statute, there was a statutory requirement to examine the affairs of every credit union, I believe it was once every two years. We looked at the information and decided, because of the mismatch of assets which had been a major problem over the last several years, we would make changes in the provisions for doubtful loans and in a number of the credit unions, when this type of information came forward, rather than leaving it to the auditors to report, we would go and examine certain parts of the credit union operation.

I guess this has been in effect now for about 10 months. As I indicated earlier, it is not a result of the Toronto board per se. There would have to be something come from material filed to indicate this was an area where we should step in, or send out an examiner to review questionable parts of the operation.

Mr. Elston: I have a couple more matters with respect to credit unions which I think will take a while longer. If the member for Welland-Thorold (Mr. Swart) has some shorter questions, perhaps we could work those in at this time.

Mr. Chairman: In fairness, he has something he wants to discuss.

Mr. Elston: I am just pointing out the time. I hate to start a new line of questions which could go on for a while.

Mr. Chairman: Before we go on, we had set rent review and the Liquor Control Board of Ontario as an agenda for tomorrow. Do members want to stick to the agenda and have these gentlemen here next Wednesday when we conclude the ministry's estimates? Would that be appropriate?

Mr. Swart: I would suggest that it would.

Mr. Chairman: All right. In the light of that, I think this may be a good time to stop these deliberations. The committee will be sitting tomorrow until 12:30 p.m. This would help a few members quite a bit. We can finish up the ministry's estimates the following Wednesday.

Mr. Swart: Could I ask one general question about the credit unions? Would it be right to assume that the situation with credit unions is improving? Are more of them out of difficulties now than there would have been a year or a year and a half ago?

Mr. Robins: Yes. Those that actually had deficits and now are earning net incomes—the ones with the bigger problems—have dropped from about 71 down to 59. Even the number that have been sustaining losses and still have an accumulated deficit—in other words, they are problem areas—have dropped from something like 58 to 55.

That is primarily because of mergers. Over the last several months there have been a number of mergers of deficit credit unions with those having healthy operations, and a number more are coming up. Therefore the 55 that have serious difficulties will probably be down to 20 or 30 by this time next year, according to information which Credit Union Central has filed with us.

Mr. Swart: Are there any in the position now where you would expect Ontario Share and Deposit Insurance Corp. may have to step in to reimburse the depositors or members?

Mr. Robins: Not at this stage, but that will be a decision that one of the stabilization funds will make. Their standing is that they do not want to pass one of their members over for liquidation. They are doing everything in their power and with the support of their members to recover the problem areas internal to the system without getting involved in insurance.

The committee adjourned at 5:45 p.m.

CONTENTS

Thursday, November 15, 1984

Ministry administration program:	
Information services	J-461
Commercial standards program:	
Motor vehicle accident claims fund	J-462
Securities	J-464
Business practices.	J-471
Financial institutions	J-476
Adjournment	J-478

SPEAKERS IN THIS ISSUE

Elgie, I	Hon. R	G.,	Minister	of	Consumer	and	Commercial	Relations	(York	East	PC)
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Elston.	M. J	. (Huro	n-Bruce	L)

Kolyn, A.; Chairman (Lakeshore PC)

Swart, M. L. (Welland-Thorald NDP)

From the Ministry of Consumer and Commercial Relations:

Abrams, A. W., Registrar, Motor Vehicle Dealers Act

Crosbie, D. A., Deputy Minister

Dev. P., Chairman, Ontario Securities Commission

McIntyre, G., Assistant Deputy Minister, Financial Institutions Division

Mitchell, D. L., Director, Investigation and Enforcement Branch, Business Practices Division

Pascutto, E., Legal Adviser, Ontario Securities Commission

Rivet, D. H., Director, Finance, Systems and Administrative Services Branch

Robins, T., Director, Credit Unions and Co-operative Services Branch

Salter, C., Vice-Chairman, Ontario Securities Commission

Simpson, R., Executive Director, Business Practices Division

Thompson, M., Superintendent of Insurance







No. J-23

Publication







Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament Friday, November 16, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario

Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 16, 1984

The committee met at 11:27 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

The Acting Chairman (Mr. Stevenson): I call this session to order, and we will carry on with the estimates of the Ministry of Consumer and Commercial Relations.

I believe we were going to spend some time on vote 1608, residential tenancy program, this morning, and on the Liquor Licence Board of Ontario somewhat later.

Mr. Elston: Mr. Chairman, what is our time frame?

The Acting Chairman: We are meeting only until 12:30 today.

Mr. Elston: How much time do we have left?

The Acting Chairman: Three hours and 16 minutes. We will be sitting Wednesday morning.

Mr. Swart: If we sit Wednesday morning from 10 until 12:30, we should be able to get it all in.

In any event, Mr. Elston may want to proceed now on the matter of the Residential Tenancy Commission. The member for Bellwoods (Mr. McClellan) is supposed to be here, and I presume he will be.

On vote 1608, residential tenancy program; item 1, Residential Tenancy Commission:

Mr. Elston: Mr. Chairman, I can make some opening remarks and at least start the questioning.

After having received the phase 1 report of the Commission of Inquiry into Residential Tenancies—it is my reading at the present time—I would like to know, what are our projections for finishing phase 2 at this stage? Is there anything more on that? Is anything being done at this time to make sure the major association players, the Ontario Landlords' Association and the tenants' associations—become actively involved in the phase 2 hearings?

Mr. Crosbie: Mr. Chairman, I understand that Mr. Thom has had discussions with some of these groups. I know he has encouraged them to return to participate in the discussion. I believe the discussions start next week. The commission

has been in adjournment, but I do not suppose we will know what will happen until next week.

Mr. Elston: I am concerned that when this was originally established, we had understood that there would be a final report available by now and that legislation would be introduced by the end of this calendar year. My concern now with respect to the recommendations on phase 1, which have just come out, is that we will not see very much until probably late next year at this rate. Can the minister comment on his timing with respect to the report?

Hon. Mr. Elgie: Mr. Chairman, that is not the target we are working towards. We have a working group that is working very diligently on the phase 1 report. I would hope to have recommendations to take to my colleagues during the winter months and to seek approval for introduction of legislation.

My personal goal would be in the spring sitting, but again I cannot speak for the government; I can speak only to my timetable. It has to go through all processes of government and get approvals.

Mr. Elston: In terms of implementing legislation or proclaiming it, are you looking at the end of the spring sitting?

Hon. Mr. Elgie: I can only tell you that I hope to introduce something in the spring session. As for implementing it when it passes, are you assuring us that there will be quick passage whenever it is introduced?

Mr. Elston: Having seen some of your pieces of legislation in draft form after we have discussed timetabling, it is not something we can undertake at this stage obviously.

However, there are a number of recommendations that will be left hanging. People involved in rent review and other processes will be expecting to appear before the commissioners now, saying, "It is recommended that such and such" or, "We have read in the paper that this is happening."

It puts the commission and the people who appear in front of it at this stage in a wee bit of a Never Never Land. I am sure those recommendations must have some impact on the thinking of a commissioner when he deals with particular cases of rent review, even at this stage.

Hon. Mr. Elgie: I do not think that is necessarily so. We have taken two pretty firm steps. One, we have removed the \$750 exemption level; so that is no longer an issue before the commission or tenants.

Mr. McClellan: The which?

Hon. Mr. Elgie: We have removed the \$750 exemption level. We rescinded the regulation that—

Mr. McClellan: That was only for apartments previously included within the orbit of rent control, or do I misunderstand?

Hon. Mr. Elgie: That is correct. That is all the act dealt with.

I have also introduced legislation now to extend the five per cent restraint on passthrough costs. We have also set in motion a process that will allow the public or any interested party to comment on the report so the working group that is preparing recommendations for me to consider will have that input as well as their own evaluation of the report and comments to me.

Mr. Elston: With the removal of the \$750 cap, what will happen with respect to units that came out of rent control and went over the \$750 limit, perhaps in the spring or whatever? Will they be covered, or is it covering just units that went over since your announcement?

Hon. Mr. Elgie: It is just those that went over since the rescinding of the regulation, which is what Mr. Thom recommended.

Mr. Elston: So units that came off rent review six months ago will not be covered?

Hon. Mr. Elgie: It is not retroactive, no.

Mr. Elston: Perhaps we could also deal with the question of my colleague's introduction in the House of the Residential Tenancies Amendment Act, which deals with the central registry for rents. You now have a piece of legislation in front of you. I have heard you express your commitment to the registry on at least two occasions.

I wonder if you might commit yourself to reviewing this particular legislation. Since it falls in line with the philosophical basis of your ministry, or certainly the expressed intentions of your ministry, will you provide us with an undertaking that you will either assist this particular legislation through the House or—

Hon. Mr. Elgie: In my statement, and in response to a question from one of your colleagues, I have indicated the government will be introducing the rent registry concept in a legislative package, and that will be part of the

overall refinement of the legislation when it is introduced. What you are talking about is a private member's bill on this issue, and it will be dealt with as a private member's bill.

Mr. Elston: We know how you deal with private members' bills. That is the unfortunate part.

Hon. Mr. Elgie: It depends on how you deal with them, too. You introduce private members' bills. That public policy issue is discussed, and I think that is terrific. The mere fact that we have that process allows opposition members to have such debates.

What I have said is that as a government we support the introduction of a rent registry. It is now going through a process of consideration by a working group, and we are receiving input from the public and interested parties. It then will be introduced in the framework of an overall package which deals with any amendments that will be forthcoming with respect to the Residential Tenancies Act.

Mr. Elston: I agree with the concept of doing an overall amendment of the operation. That is good. But you have shown by the introduction of bits and pieces of legislation dealing with rent review what you consider important; in other words, you will extend this five per cent cap, or you will remove the \$750 cap on units. However, it would seem to me that when you have expressed an intention of putting something in place, you could very well move on your own especially with respect to this rent registry, which could stand on its own feet and merit, separately from your overall review, and introduce this rent registry concept as a government bill, if you liked.

Hon. Mr. Elgie: If you have read the Thom report, then you will know that many of his recommendations are interrelated. It will be an interesting discussion as we go along today, but my position and the position of government remain the same. The entire recommendation package is under scrutiny by a working group, and we have asked for comments from the public and other interested bodies. When that is completed, I will receive a series of proposals which I will review and then present to my colleagues for their consideration, with my target of being able to introduce comprehensive legislation in the spring.

Mr. Elston: It sounds like a reading of the fifth amendment or something, in your questioning.

Hon. Mr. Elgie: No, I am talking about a process that royal commission reports go through. I understand that members of the opposition, for a valid reason, would like to cherry-pick things that they like and target them in; but the government has an obligation to tie the whole proposed package together, to review the validity of some of the assumptions, to review the costing—

Mr. Elston: We are not talking about validity in this case. It is something you have expressed an interest in and support for.

Hon. Mr. Elgie: I have already indicated it will be part of the package that will come in during the spring. If you want to hear that repeated, I will be glad to do so.

Mr. Elston: The problem is that it will be introduced in the spring and then presumably we will have summer committee hearings, the new Premier and others willing, and in terms of becoming a piece of legislation dealing with a very important aspect of our residential policy in this province, it may very well not see the light of day for a year or two or more.

Hon. Mr. Elgie: I guess that will depend on the length of the process it goes through in the Legislature.

Mr. McClellan: A new Premier; a new minister.

Hon. Mr. Elgie: Is that a hope you are expressing?

Mr. McClellan: I will reserve until I have some-

Hon. Mr. Elgie: Are you working for any particular candidate?

Mr. McClellan: I am working for Frank Miller.

Mr. Elston: While these people express their support or whatever for various candidates, I guess we are left with the other question: Will we have to have phase 2 as well before you do the whole package? That could lead us into a real delay.

Hon. Mr. Elgie: The working group is working on the assumption that it is to bring proposals to me, which I would then propose to take to my colleagues, based on the phase I report.

Mr. Elston: But you are not going to come back to us and say that since the phase 2 report now is available, we ought to examine the entire program as a package to deal with all the recommendations—

Hon. Mr. Elgie: I can only tell you my thinking and instructions today, which are that we are to proceed to deal with phase 1 and those recommendations.

Mr. Elston: Thank you.

11:40 a.m.

Mr. McClellan: Mr. Chairman, I also want to ask some questions of our uncharacteristically elusive minister today—

Hon. Mr. Elgie: Uncharacteristically elusive? In the hallway, I was just accused by your colleagues of being the reverse.

Mr. McClellan: That is what I said. It is uncharacteristic for you to be elusive. We are going to try to help you to revert to type.

Hon. Mr. Elgie: I know that any help you give me is always given with the intention that it be helpful—

Mr. McClellan: Absolutely.

Hon. Mr. Elgie: —and that it never be advice that would be seen to put me in a controversial position.

Mr. McClellan: That is going a bit too far.

Hon. Mr. Elgie: It is always given with the intent of goodwill-

Mr. McClellan: Goodwill is always there.

Hon. Mr. Elgie: -in an honest, open way-

Mr. McClellan: That is right; you have it.

Hon. Mr. Elgie: -with no partisan intent.

Mr. McClellan: Now you are straying again. Let me ask you a question, because I am quite serious about this. I do not understand the time frame you are talking about. Let me explain why. In 1975—were you elected in 1975? You came in 1977—

Hon. Mr. Elgie: It just seems to me as if I have been here since 1975.

Mr. McClellan: Right; it is an awful long time. In 1975 there was an election in which rent control was front and centre in the campaign. The election was September 18, 1975. We all came in here, old and new alike, and the very first piece of legislation that was introduced by the minority Conservative government was the first rent control law.

If my memory does not play tricks on me—I have not looked it up—we had it by November 1975, if not by December, and we were dealing with it in the House in the fall of 1975, both for second reading and clause-by-clause consideration.

For the life of me, I do not understand why it is taking you from the time when you received the

Thom report, which I understand to be some time in August 1984—is that correct?

Hon. Mr. Elgie: We can go through it again, but it will not surprise you to know that a rough print of the bill, as I have said before, was forwarded to me just for my information.

Mr. McClellan: Of the report? Surely you did not mean to say "of the bill."

Hon. Mr. Elgie: Of the report.

Mr. McClellan: Of the report, yes. That was a Freudian slip.

Hon. Mr. Elgie: It was for my information. I understand it was a draft copy for Mr. Thom that I was given. I understand he reviewed that for corrections, as I have said in the Legislature, some time in mid- or late September, and it then went to the printers for printing. It was distributed, as I said it would be, before the end of October.

Mr. McClellan: All right. I am not disputing it. When did it go to the working group?

Hon. Mr. Elgie: It went to the working group closely after the day we released it.

Mr. McClellan: Some time in October?

Hon. Mr. Elgie: Yes.

Mr. McClellan: You are saying it is going to take from October until some time next spring before you are able to put together a legislative package?

Hon. Mr. Elgie: I did not say that. I said I would hope the working group, through the very expeditious way it is going at its work, should have recommendations for me to consider with respect to proposals that I might take to my colleagues during the winter months.

Mr. McClellan: When do you suppose that will be?

Hon. Mr. Elgie: Actually, I was thinking I would call a meeting of my colleagues from January 24 to 26 to review these matters, and then we could get a quick decision.

 $Mr.\ McClellan:$ That would be very helpful.

Mr. Swart: You would not have to call a meeting to get them all together.

Hon. Mr. Elgie: Seriously, it is coming up through a process; you know that and I know that. I can only give you my assurance that the process under way is one that should lead to a series of recommendations for me to place before my colleagues during the winter months. Again, I wish to convert that to legislation that would be introduced in the Legislature in the spring session.

Mr. McClellan: Again I do not want to belabour the point, but given the urgency with which the creation of the Thom commission was announced in the first place, way back in November 1982, I do not see it as being beyond the competence within your ministry to produce a package of legislative proposals and have them available to the Legislature before we rise for the Christmas break.

I think, frankly, that the longer you delay bringing forward a legislative package, the more remote becomes the possibility of us ever seeing any of the recommendations of the Thom report translated into a legislative program. I happen to think that is part of the current political drift.

Hon. Mr. Elgie: That would certainly not be a drift I would support.

Mr. McClellan: I can appreciate that.

Mr. Elston: That is what we heard earlier.

Hon. Mr. Elgie: The track record of this ministry in the area of rent review is a pretty solid one. When I was first appointed, the issue which was of major public interest and interest in the Legislature was the conflict of interest with respect to commissioners who retired and then started to represent certain landlords before the board. I dealt with that issue. The Residential Tenancy Commission and I discussed it and certain time limits were put in place with respect to conflict of interest.

It also became clear to me, as it was to the then commissioner, that the backlog problem could not continue. Again, we went through a process of convincing Management Board of Cabinet and my colleagues that there had to be increased funding provided for the commission so it could meet its mandate.

When there was a very critical issue facing us in the fall of 1982, I moved to take certain immediate steps which I thought were necessary, namely, the five per cent restraint on financing costs. At the same time, the commission on its own introduced certain guidelines with respect to the pass-through of costs.

There is a history, under my direction and leadership, that there is a willingness to move on issues.

Mr. Elston: I do not think there is any question.

Hon. Mr. Elgie: As same minister, I continue to stress that there be a legislative package before the House in the spring of next year.

Mr. McClellan: Again, I have three or four questions, if I may. Not to belabour this point, I do not think it is an unreasonable demand, and I

am famous for making unreasonable demands, to demand that you have something available to us before we rise. If your intention is to wait until the spring, I guess we will all just have to wait until the spring.

May I ask who is on the working group?

Hon. Mr. Elgie: I cannot remember all the names of these people, but I think I have them down here somewhere. The working group consists of Mr. Steve Fram from the Ministry of the Attorney General, Mr. Pat Laverty from the Ministry of Municipal Affairs and Housing, Mr. Phil Howell from the Ministry of Treasury and Economics, a representative from the Residential Tenancy Commission and Dr. Joyce Feinberg from my ministry. The committee is being chaired by Mr. Les Horswill from the Ministry of Treasury and Economics.

Mr. McClellan: It is a very Treasury-dominated group, is it not?

Hon. Mr. Elgie: It is proving to be a very active and energetic working group, with the same timetables in mind and pursuing the same objectives as I do. I am complimentary of the way they are proceeding.

Mr. McClellan: That is interesting.

Hon. Mr. Elgie: That I am complimentary, do you mean? It is interesting that I am complimentary?

Mr. McClellan: No, sorry. It is interesting that it is basically a Treasury operation that is reviewing the royal commission. You have one representative from your ministry on the working group, Dr. Feinberg.

Hon. Mr. Elgie: And the RTC.

Mr. McClellan: And the RTC.

Hon. Mr. Elgie: In our own policy field.

Mr. McClellan: Right. That is very interesting.

Hon. Mr. Elgie: By the way, they are seconded to work for me on this project.

11:50 a.m.

Mr. McClellan: Let me just ask about two points. I assume you will again revert to being evasive after being so helpful, but maybe I should not make that assumption. One of the weirder recommendations of the Thom commission with respect to illegal rents was the proposal to have, if I may use my own phrase, a kind of crime holiday for landlords who have been charging illegal rents since 1976. In other words, the Thom commission has proposed that illegally charged rents be recovered for a retroactive

period of three years, but that any others would simply be written off as some kind of a-

Hon. Mr. Elgie: Actually, what he said, if you read the text of the report, was that in most situations there is a limitation-of-action period and he might suggest, for example, that it be three years.

Mr. McClellan: Do you know of any three-year limit of action?

Hon. Mr. Elgie: The suggestion of that limitation is one of the issues the committee is looking at.

In automobile accidents, as you know, there is a one-year limitation of action period. As I recall, the ordinary limit for most suits is in the neighbourhood of six years, but there are variations.

Mr. McClellan: I hope you will exercise some political judgement about that. Quite frankly, given the evidence of how widespread illegal rent charging is in this province and how difficult it has proved to enforce the rent review legislation, because the relevant sections of the Residential Tenancies Act were not proclaimed after the court decision, it would be quite simply appalling if there was a long period of what I call a crime holiday for landlords.

I just want to put you on notice about that concern we have arising out of the recommendation of the Thom commission.

Second, the other urgent problem you addressed when you appointed the Thom commission way, way, way, way back in November, 1982–

Hon. Mr. Elgie: Would you repeat that? I did not hear the question.

Mr. McClellan: -was costs no longer borne by the landlord. Again, I have real concerns about Commissioner Thom's proposal that rent correction hearings require, as I understand it, the application of 50 per cent of the tenants.

Hon. Mr. Elgie: Fifty per cent of the occupants of units must consent to an application for a rent correction hearing.

Mr. McClellan: Again, I think that is imposing a major burden on tenants, if the government is really concerned about a cost pass-through system that is fair. That is all we are talking about. We are still talking within the context and policy range of the cost pass-through system. It would be very unfair if the amendments do not make it possible for costs which have been passed through, which no longer exist, to be removed from the rent structure. I do not think the government should be putting up

hurdles for tenants trying to achieve a measure of justice and equity.

Again, I simply want to put you on notice about that as one of the major concerns we have with respect to the Thom commission.

Hon. Mr. Elgie: The other part of this proposal was that the landlord on such an application had the option of converting it to a whole building review. I cannot look into the commissioner's mind and see what he was thinking, nor did I ever have any discussions with him about it, to tell you the truth.

I wonder if he was thinking that if one or two people made the application and the landlord then coverted it to a whole building review, the majority of tenants might not wish that. I do not know

What are your views on the flip side of that question?

Mr. McClellan: I obviously did not monitor all of the hearings, but we had people at them for a substantial period of time and I have had an opportunity to talk a lot with people who were at the hearings full-time throughout.

One of Commissioner Thom's repeated concerns—I will use a neutral phrase—was that—

Hon. Mr. Elgie: That is one of your phrases, I borrowed it.

Mr. McClellan: I knew you would like that one. One of the commissioner's concerns was that if the rights of the tenants which they enjoyed in the 1976 legislation to initiate hearings were restored, there would be a tremendous flood of tenant applications. The commissioner had it in his mind that anything that made it easier for tenants to initiate hearings would produce this tremendous flood of tenant-initiated hearings which would swamp the commission and throw the whole thing into a cocked hat.

Of course, the evidence between 1976 and 1978 did not substantiate that concern. The evidence repeatedly brought forward at the hearing was that this was not a real concern. Nevertheless, it was something the commissioner had fixed firmly in his mind. I would assume the suggestion he has made, which you have referred to, the flip side, has to do with that concern, which I happen to think is a bugaboo. I do not share that concern myself.

Hon. Mr. Elgie: Without commenting on the merits of it, let us also acknowledge that from 1976 to 1978 it was at the discretion of the commissioner whether or not a single tenant's application for rent review could be converted into a whole building review. Is that not correct?

The commissioner had the option, according to the Thom report.

Mr. P. C. Williams: There was no such thing as whole building review from 1976 to 1978.

Hon. Mr. Elgie: Did the commissioner not have the capacity to order that a larger number of units be included?

Mr. P. C. Williams: Yes.

Hon. Mr. Elgie: It was not a landlord's option.

Mr. McClellan: This is obviously not the point. We are getting into a nitty-gritty kind of thing.

The Acting Chairman (Mr. Cureatz): If I might interrupt for a moment, the gentleman has to declare his name for the record.

Mr. P. C. Williams: Philip C. Williams, chief tenancy commissioner, Residential Tenancy Commission.

Mr. McClellan: I do not want to get into a nitpicking exchange at this time.

Hon. Mr. Elgie: That will come later.

Mr. McClellan: Right. On the issue of costs no longer borne, the ministry has a political responsibility to the tenants of this province to make sure the mechanism set up is as free as possible of obstacles, hurdles, red tapes and fiery hoops. I think that is an obligation.

The Acting Chairman: If there is a lull in the procedure—

Mr. McClellan: No, I am just gathering my wits.

The Acting Chairman: While you gather your wits, I would like to bring to the committee's attention, that there has apparently been some agreement that we adjourn at 12:30. There were some concerns about still looking at vote 1607.

Mr. McClellan: Let me ask one more question in the spirit of this conspiracy.

Hon. Mr. Elgie: Pardon me putting it this way, but if you look to your right you will see where the origin of the conspiracy is.

Mr. McClellan: I do not see anything there.

Mr. Swart: Mr. Chairman, for the defence, on a point of order: Although we did agree to deal with the two today, I am not sure there is any agreement that we conclude.

The Acting Chairman: Conclude at 12:30 or conclude the item?

Mr. Swart: Conclude the item.

Hon. Mr. Elgie: I do not really care if we conclude it today, but we did have an understand-

ing we will go to financial institutions next Wednesday.

Mr. Swart: May I point out, still for the defence, we did plan to go until one o'clock Wednesday.

Hon. Mr. Elgie: Let us get going and not waste time. As Jerry Brown would say, let us get down to the centre of experience.

Mr. McClellan: I have two quick points. First, I think the exemptions have to be taken out, the \$750-exemption. You have readmitted apartments that were inflated out of rent control. The basic \$750-exemption, as I understand it, still stands for apartments which never were included under the umbrella of rent review, and post-1976 buildings are still included.

12 noon

It is now in the realm of the absurd that those two exemptions continue to stand. You can expect us to try to persuade you of the rationality of our perspective.

Finally, I really do not think the Thom commission should continue into phase 2. I have expressed a combination of frustration and impatience and I know you have not always appreciated the nature of my interventions on this subject. But I really am sick to the teeth and fed up—and I mean this—and so are my colleagues and a number of people in this Legislature with royal commissions appointed to deal with urgent and pressing problems that fail to respect any kind of rational time deadlines.

I do not think any further royal commissions should be appointed in this province unless they are asked, as the Minister of Education (Miss Stephenson) has asked her latest task force, to report within a specific time period, at the end of which the cheque book is closed and they all go back to their real life occupations.

I do not think for a second that is an unreasonable way to conduct public business. I think it is intolerable that we have these royal commissions, the Allan commission, the Fahlgren commission and the Thom commission, whose members seem to think, once they are appointed, that they have a permanent, decadelong draw on the public purse. They treat the kinds of problems they have been asked to address—and you yourself spoke to the urgency of these—as though you had never expressed those kinds of concerns.

I think two years is long enough. If the commissioner has not been able to complete his task with a generous budget, a very full complement of staff and the co-operation of tenants and landlords within the two-year period,

I think in the name of fiscal prudence the cheque book ought to be closed. I make that observation for you.

The Acting Chairman: Do you have a supplementary or a new question?

Mr. Elston: I have a few quick questions.

Mr. McClellan: I have basically said what I came here to say.

Mr. Elston: When you have these deliberations through your working group, you are accepting more public input. This is the way I understand it. There are comments being made to the group, and yet the discussions will be quite closed. I presume there will be no opportunity to advance, other than by written submission, the proposal of one group or another.

Hon. Mr. Elgie: We are not going through another hearing.

Mr. Elston: No, I understand that.

Hon. Mr. Elgie: We are going through comments on the existing phase 1 proposal.

Mr. Elston: I understand that, but when you elicit comments from the public on those proposals, the comments become, I suppose, secret as far as we are concerned when it comes to dealing with the draft legislation.

Hon. Mr. Elgie: I will certainly explore the possibility of having any comments that are received made public. There is no reason not to, unless the individuals write in and ask for privacy, and I do not know that anyone would. I will explore that.

Mr. Elston: You mentioned the reduction of employees in the commission. I see we have a \$500,000-decline in payroll, salary and wages. Are we now reducing the numbers in the commission? Have we caught up with our backlog and is that why we are seeing a reduction in the expenditures on salaries?

Mr. P. C. Williams: Yes. There has been a reduction in our budget expenditures for this year. We have not reduced staff arbitrarily butthrough attrition. As people leave for other jobs, we have not replaced those individuals except where necessary.

We get caught up and then we get behind. There is a fluctuating work load, but essentially we are caught up now.

Mr. Elston: What is the extent of the reduction-how many people? Do you know offhand?

Mr. P. C. Williams: I do not have a figure offhand, but at the beginning of this fiscal year we did not automatically continue 29 contract

staff, which we had previously. We have not been using the 40 part-time commissioners at all this year. Attrition has reduced our full-time staff by about 10 to 15 people.

Mr. Elston: The other question is in relation to the time at which the regulation was changed to the \$750 limit. What is the estimated number of units in Ontario that became free of rent review in that time period? Do you know how many units went off rent review, having reached the \$750 limit? Do you have that figure?

Mr. P. C. Williams: I do not have an exact figure for you, but when the regulation was proclaimed, only about one per cent of all of the rental units were affected at that particular time. The figure has grown at only a minuscule rate.

Mr. McClellan: I am sorry. I do not understand your statistics. Did you say one per cent were over \$750?

Mr. P. C. Williams: Yes.

Hon. Mr. Elgie: At the time they went into place.

Mr. McClellan: Which would have been 1978 or 1979?

Mr. P. C. Williams: In 1979.

Mr. McClellan: What is the per cent now?

Mr. P. C. Williams: I do not have an exact figure, but it is marginally higher. I would guess it is probably about 1.2983 per cent or something like that. It is very small.

Mr. Elston: There were very few units involved-

Hon. Mr. Elgie: Very few units have gone—**Mr. Elston:** –in that time period.

Mr. P. C. Williams: That is right. The population of rental units that are under rent control is in the vicinity of 900,000 so it takes a lot to make a change of one per cent.

Mr. McClellan: You have exempted everything built since 1976 so I would assume a high percentage of that new stock relative to the pre-1976 figure would be over the \$750 limit. Would you agree with that?

Mr. P. C. Williams: When I talked about one per cent I was talking about one per cent of the units that would have been under control had that \$750 limit not been in existence. I am not speaking of units constructed since 1976 which are renting from \$750 or more.

Mr. McClellan: Do you have that data?

Mr. P. C. Williams: No, I do not have it. I think it is obtainable, though. The Ministry of

Municipal Affairs and Housing has that kind of data.

Mr. Elston: Thank you very much.

Mr Swart: I just have one comment before-

The Acting Chairman: A comment or a question?

Mr. Swart: It is a comment. In my lead-in comments I referred to the rent situation and urged the minister to give some consideration to bringing in legislation this fall that might deal with one or two of the crucial matters. I believe in reply you said it was much preferable to bring in a comprehensive bill at one time, but I must express concern, as did my colleague the member for Bellwoods, about the likely delay in the amending legislation.

If this coming year was going to be normal it could get through fairly quickly in the spring, but I think all of us recognize there is a real possibility proceedings will be disrupted by a provincial election and it is not at all unlikely that any legislation will not be passed before the fall of 1985. That means these injustices will continue until that time and therefore in the couple of areas in which it is so crucial to provide justice I would be in favour of having some legislation introduced this fall, even if you did not deal with everything that was brought in.

12:10 p.m.

The Acting Chairman: Is that it?

Mr. Swart: That is it unless the minister wants to make a comment.

Hon. Mr. Elgie: I have already responded several times.

Mr. McClellan: Gordon Walker will be the new Minister of Consumer and Commercial Relations.

The Acting Chairman: Now then, it was brought to my attention that possibly there was no agreement in terms of the various votes. Shall vote 1608 carry?

Vote 1608 agreed to.

On vote 1607, liquor licence program:

The Acting Chairman: Would you be so kind as to introduce yourself for Hansard?

Mr. Blair: My name is Willis L. Blair, chairman of the Liquor Licence Board of Ontario. I have with me my executive director, Dr. John Flowers, and the solicitor of the board, Mr. Steve Grannum.

The Acting Chairman: If we need their services, they will be asked to come forward and repeat their names into the microphone. With those few remarks, Mr. Elston.

Mr. Elston: Yes, I have some questions for Mr. Blair. First, since this was the most recent and probably the most important announcement to come out of the Ministry of Consumer and Commercial Relations in the last few days, how did the 10 a.m., November 9, 1984, sale of the Beaujolais go for—

Mr. Blair: Mr. Elston, that is the Liquor Control Board of Ontario.

Mr. Elston: I understand.

Mr. Blair: I have no idea, but I saw a lineup down at the main store this morning an hour or so before it opened.

The Acting Chairman: For the members' information, I just happened to miss part of question period and also partook of the lineup and it is a great lineup. CFTO was there and did a great job; you can catch it on the news.

Mr. Elston: Thank you very much. Mr. Chairman, I would like to address some concerns to Mr. Blair with respect to licences. I know a question you probably deal with every day of the week is the question of what is a special occasion permit for social purposes and what is a special occasion permit for fund-raising purposes and how do you differentiate?

I know there has been consideration of that particular question, at least internally, for some time now. Are we any closer to a differentiation or perhaps closer to doing away with a distinction between the types of requirements which are being posed for the issuance of those permits?

Mr. Blair: The special occasion permit branch is a very busy one, let me tell you that.

Mr. Elston: I know.

Mr. Blair: The social permits are the ones you pay \$10 for and they are the type you get where there is no sale of goods, such as for wedding receptions and those types of things, or somebody promoting something. For the others there is a levy. The price runs up to about \$50 for the permit.

Fund raising is a real can of worms in one sense. We have a rule of thumb where we allow an organization one fund-raising event a year; but there are many organizations, whose members feel they have to have events that involve special occasion permits to survive. There are still quite a number in Ontario who feel a licence to sell liquor is a licence to print money; that really is not so.

Mr. Elston: The sale of liquor has done well by the province of Ontario though.

Mr. Blair: How do you mean that?

Mr. Elston: It is a major revenue-

Mr. Blair: Oh yes.

Hon. Mr. Elgie: I do not think anybody has ever denied that.

Mr. Elston: I am just comparing it to the thoughts given us by Mr. Blair.

Mr. Blair: You are right there. Although there has been a levelling off in the revenue generated to the Provincial Treasury from the LCBO, where we are involved in gallonage fees and the regular licensing aspect of fees and so on there has been an increase. But it is not of our doing, it is the ad valorem aspect of it.

Mr. Elston: When groups apply for these licences for fund-raising purposes, I understand there is a requirement that money raised at an event sponsored by adult sports teams or social clubs be earmarked and dedicated for the purpose of community betterment—

Mr. Blair: A certain percentage has to be.

Mr. Elston: –or minor sports or whatever. It is required that the total net proceeds are not retained by that adult organization. Why is that restriction there? How did it come about? Where did the pressure come from for that?

Mr. Blair: That has been there for some time. From my point of view, I inherited it. Its application varies from time to time, depending on the organization and so on. If we had a fully-detailed financial statement from every one of these, we would show that some organizations obey it to the letter and others found they were short of money and it went back into the running of the organization. It is not what you call a cut and dried business. We will be reviewing the regulations and the act starting the first of next year.

Hon. Mr. Elgie: I guess the main goal—and the chairman would not disagree on this—is that we do not issue special occasion permits to organizations simply because of the business of making money from the sale of alcohol. They can apply for a licence and become a licensed operator. The goal of a special occasion permit is to provide funds for community betterment in a variety of ways, not to generate income for an individual.

Mr. Elston: At the same time, if you happen to be a public organization, a sporting club or a social club, you cannot hold a social function without getting a special occasion permit if you intend to have alcoholic beverages at any one of your functions.

Mr. Blair: That is right.

Mr. Elston: If you happen to make a sale and there are net proceeds left over, you are supposed to make an arrangement to provide that for community betterment; or your club is supposed to have community benefit as its objective as I understand it, public service.

You will be undertaking a review of these permits. My colleague Mr. Riddell and I recently had an opportunity to meet with members of one group of hotel, motel and hospitality industry operators. They were quite concerned about the number of special occasion permits.

We can deal with the other side of the argument at this point. They suggested you consider issuing a catering licence to organizations. For want of an example, perhaps a ball team might approach a hotel or tavern operator to sponsor the function for the organization. In other words, he would hold the licence and the ball team would use the facility.

There was a difference of opinion expressed at the meeting whether that is possible even now. Could you provide us with some clarification?

Mr. Blair: It is being studied. We compared notes with other jurisdictions; we have the Nova Scotia experience. I am one of those people supporting a catering licence, not necessarily because it would satisfy the Ontario Hotel and Motel Association, although in essence it would. One of their directors in London, as you no doubt know, is very much in support that. He does catering in Ontario quite some distance from his base in London.

Mr. Elston: So there are some ad hoc-

Mr. Blair: I think it is a good thing. That caterer is already an existing licensee and has far more to lose if he does not obey the rules. Too often in the special occasion permit business they are one-shot deals and will ignore the rules completely. There is no way we can come at them, unless they apply for another licence.

12:20 p.m.

Mr. Elston: Technically speaking, that gentleman is not complying with the letter of the law.

Mr. Blair: There is nothing saying he cannot make an arrangement with an organization that is sponsoring an event.

Mr. Elston: As I understand it, the catering licence is held by the-

Mr. Blair: There is not a catering licence as such, yet.

Mr. Elston: No, that is what I understand.

Mr. Blair: We are ready to recommend one.

Mr. Elston: You are pursuing that?

Mr. Blair: Yes.

Mr. Elston: I have forgotten where I was going to take that line of questioning around-

Hon. Mr. Elgie: It was around special occasion permits.

Mr. Elston: –the particular point I was going to raise about catering licenses and how you get involved in them. Until I recall that other question, can you tell us how long you expect the review will take? When do you expect this to be dealt with?

Mr. Blair: We will be making a recommendation, I am sure, by January at the latest.

Mr. Elston: If this particular minister is going to be busy with a review of the licensing of special occasion permits policy in addition to tenants and whatever else for the spring, we can look forward to a long list of amendments.

Hon. Mr. Elgie: We have a few other things to do around here.

The Acting Chairman (Mr. Stevenson): This minister has the capacity to deal with anything.

Mr. Elston: I do not doubt his capacity at all. Can you tell us what sort of interaction there is between your organization and those that enforce the law? One complaint we have had was that the operators of hotels, as facilities licensed under the laws of the province to serve alcoholic beverages, would have an Ontario Provincial Police car parked outside their premises, or certainly not far down the road; or they might have a municipal police force car parked there, visible to patrons who come in and out. They might have the special roadblocks no more than two or three blocks away from the establishment.

Is there any sort of co-ordination between your organization and that of the Attorney General (Mr. McMurtry)?

Mr. Blair: If we are aware that a licensed establishment has potential trouble we will be in touch with the police. Our own people likely will not be far away either. I would say in most instances the police have been alerted by someone who knows the situation there—or a competitor, that happens—and of course the police might be there on their own to do spot checks for impaired driving of the patrons leaving.

I should say as well they may walk into the establishment. It is usually the local municipal force that will do that, unless there has been a call

to the OPP specifically to alert them there are some incidents taking place, the serving of minors and that type of thing.

Hon. Mr. Elgie: You do not object to that, do you?

Mr. Elston: Pardon me?

Hon. Mr. Elgie: You are not criticizing that, are you?

Mr. Elston: Only if it becomes a matter of course to set up roadblocks on either side of the establishment, as was suggested at our meeting with this group of operators.

Hon. Mr. Elgie: Do you mean if there is harrassment going on?

Mr. Elston: There appeared to be that. I am saying that only from the point of view that we were given the information. I have not verified exactly on how many occasions it occurred. It seems to me we are pulling both ways on the rope. At a time when we are trying to prevent impaired driving we still have these licensed, legally operating establishments which tend to be the focal point for some of this enforcement.

Mr. Blair: When you realize there are over 10,000 licensed establishments and about 3,000 special occasion permits issued per week, you will see we have to rely on the police. We only have a staff of around 50 or so.

Mr. Elston: I know you are in a particularly delicate situation, but it is difficult if you have a licensed establishment with patrons who may feel it is dangerous to even attempt to use the establishment for the purpose for which it is licensed.

The Acting Chairman: May I interrupt here for just a second? I have some hands waving and we only have about five minutes left today. What do you care to do?

Mr. Swart: I have one or two questions as well, but I suggest we carry on with this discussion if you are available when we resume next Wednesday morning after caucus.

Mr. Blair: Are you meeting on Thursday?

The Acting Chairman: Wednesday.

Mr. Blair: But not Thursday? I can change things, but I have a rather important meeting with the inspectors and the Ontario Provincial Police on Wednesday. If there are just one or two matters I can probably change that. The meeting is scheduled for Wednesday at lunchtime; it is up at Primrose, as a matter of fact.

Mr. Elston: How far is Primrose from here?

Mr. Blair: It is just outside Shelburne. There are a lot of problems up there. The meeting will

be dealing with special occasion permits, incidentally.

Hon. Mr. Elgie: Why do we not just get on with the questions in the time we have?

Mr. Elston: I will just raise the item and let it pass to Mr. Swart. I apologize, but I have a number of important questions.

The Acting Chairman: Two of your colleagues also have questions.

Mr. Elston: The only question I want to bring to your attention is one that was raised by the member for Waterloo North (Mr. Epp). It concerns the Breslau Hotel. I just raise that for your consideration. Perhaps it can be explored a little more fully with the member for Waterloo North at another time.

Mr. Riddell: As I understand it, we are not going to be able to discuss the special occasion permits any more this morning. Is that correct? That is the reason I came into this meeting, really.

Hon. Mr. Elgie: Can you change your arrangements, Mr. Blair?

Mr. Blair: I could make it the next day, I guess.

Mr. Elston: Why can we not accommodate Mr. Blair? It would be unkind to have him come back on Thursday.

Mr. Swart: What time do you have to be at that meeting, Mr. Blair? I would be prepared to start at 9:30, or even nine, on Wednesday morning. We would not need you, I would not think, for more than an hour. What time do you have to leave?

Mr. Blair: Eleven o'clock.

Mr. Swart: Let us start at 9:30, and we will adjourn when we run out of time.

The Acting Chairman: Nine-thirty?

Mr. Blair: Nine-thirty next Wednesday.

The Acting Chairman: Will you inform your House leader in case he wishes to come back at that time?

Mr. Swart: Yes.

Mr. Elston: Carry on then.

The Acting Chairman: Whoever wishes to proceed with the questioning, carry on.

Mr. Swart: There is a whole subject I want to get to, but it is going to take much more than the two or three minutes we have left.

Hon. Mr. Elgie: Okay; Jack, you go on now then.

The Acting Chairman: Go ahead, Jack.

Mr. Riddell: I want to elaborate more or less on what Mr. Elston has already said, that the hotel and motel operators are very concerned, and have been for some period of time, over the issuing of special occasion permits because it is putting them out of business.

I know it is quite a controversial issue; a lot of these communities feel the only way they can raise money to carry on with their activities is by having various organizations sponsor events and apply for special occasion permits. However, when you consider that somebody can drop in on these functions and buy beer and liquor cheaper than he can get it in the local tavern, you can understand why the operators of these local taverns are very concerned.

I do not know what the solution to the problem is other than to suggest this government should be selling the alcohol to the tavern operators at a wholesale price. If I operate a hardware store I get my products at wholesale prices because I am the distributor and I am going to retail them. Why could the same thing not be done for the hotel and motel operators? Why could the government not sell the alcohol to them for a wholesale price; then perhaps they could compete with the organizations that are applying for these special occasion permits.

12:30 p.m.

If you go into one of these functions it costs something like \$5 for four tickets. If you go into a hotel it costs at least \$1.50 for a bottle of beer, or it could even cost you \$1.75. I was at a place the other day—it was not a hotel—where it cost me \$2.50 for a bottle of beer. After watching a slow-pitch game I can go into the arena where they have a bar set up, and obviously they have a special occasion permit, and they are selling four beer tickets for \$5. If I want to consume alcohol, why would I not go there and buy my beer rather than go into the hotel, where I have to pay \$1.50 or \$1.75 for a bottle?

You can understand the real concerns these motel and hotel operators have; and I shared their concerns when Murray and I met with them just the other day, because they are hanging on for dear life. They are going to go right down the tube unless something is done.

As I say, I do not know what can be done. In many cases the hotels do not have sufficient room to accommodate a particular function within the community, so the organizers have to go to the community centre or to the arena to hold their function. That, of course, is when they are able to buy the tickets for the booze. It is a real dilemma.

I would hate to see all our little taverns, hotels and motels go down the drain, particularly out in what I call rural Ontario. I do not think it is going to happen in the large urban centres, but unless something is done about these special occasion permits in the small towns and villages in rural Ontario I am afraid we are going to see them simply fold their doors.

On the other hand, one does not like to curtail the various functions that take place within a community. It seems to me every community now has a function that establishes some kind of identification for that community. I am thinking of Friesburg Days in Dashwood, Klompenfiest Days in Clinton and Gala Days in Ailsa Craig. They all have functions going on which establish a certain identity and they can raise money for swimming pools, parks and what have you in their own communities.

One does not like to discourage that type of thing, but you can also see the real dilemma the hotel and motel operators have.

Maybe this government is going to have to think about selling the product to the hotel operators at a wholesale price and then letting them sell it for whatever price they feel they need to make a profit and to compete with the organizations that have applied for special occasion permits.

Maybe you could respond. What can we do to assist the hotel and motel operators in rural Ontario to stay in business?

Mr. Blair: I notice Mr. Riddell is taking up the cause of the hotels and motels. Of course, they are a small portion of the licensed establishments in Ontario; they are the ones that are doing the most complaining right now.

Mr. Riddell: Because they are in trouble.

Mr. Blair: They are in trouble, yes; but they are also making some comments in their editorials and so on which just do not wash.

For instance, the last editorial, for other than altruistic reasons, talked about the monster that has arisen in the past three years in the special occasion permit business. It just so happens there have been fewer SOPs issued in the past three years than there were in the three years previous. You likely heard about all this when you met with them. It has levelled off.

However, the number of licensed establishments has gone up by about 23 per cent in the past three years, if we want to use three years as a measuring stick. That has been done for other reasons than I wish to discuss today; it is three years since I have been around on this job.

There are 10,700 licensed establishments. We get complaints all the time that we are too free at handing out licences, that every hamburger joint and every pizza place gets a licence. Of course, in Ontario obtaining a licence is a right; it is not a privilege, it is a right. There is quite a difference. If they qualify, they get it. Those folks who are complaining are getting competition from the increased number of regularly licensed restaurants.

There is a problem, and I am not belittling their problem, qualify, they get it. Those folks who are complaining are getting competition from other than SOPs; they are getting competition from the increased number of regularly licensed restaurants.

There is a problem, and I am not belittling their problem, but I am wondering whether they are going about it the right way.

Hon. Mr. Elgie: However, you are looking at any options; their concern, for example, that the owner of an establishment in which the affair covered by the SOP is being held should also be on the licence. That is one thing they are talking about, so there is a tangible person who can be held in the event of under-age drinking, serving minors and all these problems that arise. That is one of the things I know you are doing.

Mr. Blair: That is the hall owner.

Hon. Mr. Elgie: They also talked to us about whether the fee for the SOP, where there is going to be money earned, should be increased.

Mr. Elston: That may be the great equalizer with respect to the cost to the hotel owner of his product and the cost of obtaining the special occasion permit.

Hon. Mr. Elgie: As Jack says, everybody can pick on situations where there may be abuses, but there are an awful lot of situations, such as the ones he refers to, that nobody wants to tamper with because they are part of that community. We have to be sure not to start doing things that wipe out those things.

Mr. Riddell: All the hotel and motel operators are asking is that they can be competitive. They say that for every glass of beer they sell they have to charge tax. That does not apply to holders of special occasion permits, who seem to be able to establish whatever price they want for the tickets they sell. If they can make a little bit of profit off that it is fine and dandy. The hotel owners just cannot compete with the special occasion permits.

Mr. Blair: Of course, there is a levy if there is a pay bar.

Mr. Riddell: Well, yes.

Mr. Elston: Is it \$1.50 or something?

Mr. Blair: It is 75 cents.

The Acting Chairman: We can continue this questioning next Wednesday at 9:30 a.m.

The committee adjourned at 12:36 p.m.

CONTENTS

Friday, November 16, 1984

Residential tenancy program:	
Residential Tenancy Commission	J-483
Liquor licence program	J-49(
Adjournment	J-495

SPEAKERS IN THIS ISSUE

Cureatz, S. L.; Acting Chairman (Durham East PC)

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Elston, M. J. (Huron-Bruce L)

McClellan, R. A. (Bellwoods NDP)

Riddell, J. K. (Huron-Middlesex L)

Stevenson, K. R.; Acting Chairman (Durham-York PC)

Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Consumer and Commercial Relations:

Blair, W. L., Chairman, Liquor Licence Board of Ontario

Crosbie, D. A., Deputy Minister

Williams, P. C., Chief of Tenancy Commissioner and Chairman, Residential Tenancy Commission



No. J-24

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice Estimates, Ministry of Consumer and Commercial Relations

Fourth Session, 32nd Parliament Wednesday, November 21, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

Published by the Legislative Assembly of Ontario

Editor of Debates: Peter Brannan

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 21, 1984

The committee met at 9:35 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER A'ND COMMERCIAL RELATIONS (concluded)

On vote 1607, liquor licence program; item 1, Liquor Licence Board of Ontario.

Mr. Chairman: We agreed to deal with Mr. Blair at this time so that he can get away to a scheduled appointment later on this morning. I believe you were asking Mr. Blair some questions. We will continue with the questions.

Mr. Swart: Mr. Chairman, you right; that is what we decided to do. Before we get to that, I wonder whether we could agree to have some discussion on the Housing and Urban Development Association of Canada later his morning. My colleague the member for Etobicoke (Mr. Philip) would like to discuss it. I see that it does not come under any particular vote, but it is one of the acts.

Hon. Mr. Elgie: It comes under business practices.

Mr. Swart: The way it is worded is strange. It has all the acts listed; they list that and say it does not come under any particular vote. Can we allot at least half an hour later this morning to discuss it?

Mr. Chairman: We have passed business practices, but I have no problem with that.

Hon. Mr. Elgie: I do not have any problem with that.

Mr. Chairman: If the deputy minister would call-

Mr. Swart: Perhaps we could set 11 a.m. Would that be all right?

Hon. Mr. Elgie: Bob Simpson?

Mr. Crosbie: Is it just the HUDAC aspect of business practices?

Mr. Swart: Yes.

Mr. Crosbie: Home warranties?

Mr. Swart: Yes.

Mr. Chairman: We have two hours and seven minutes left, so it will be approximately 11:40 when we will finish the minister's estimates. All the votes will be put at that time.

We can proceed now with Mr. Blair.

Mr. Elston: I am not sure where we were last week. I guess we finished off with Mr. Riddell talking about special occasion permits for a hotel operator. Was there any response to that?

Hon. Mr. Elgie: The chairman indicated there had not been an increase over the years in the number of special occasion permits. The member was raising the possibility of reducing the prices to licensed establishments. Unfortunately, I think that sets up a discriminatory situation that would be a little difficult to defend.

I did indicate that I understand the board is looking at some other options, keeping in mind that I do not think any members in the room, or Mr. Riddell himself, want to eliminate the capacity for a community to obtain SOPs for the purposes of that community's interest.

Another issue he raised was whether licensed establishments could have a catering licence.

Mr. Elston: We talked briefly about that and you mentioned there were some de facto catering operations. There was at least one operator out of London who had gone off premises.

Mr. Blair: Yes, but that was a special kind of deal. Bingeman Park in Kitchener is involved in that kind of thing too. Mr. Escaf is a well-known operator and a good caterer. He finds it very profitable to go quite a few miles, say from London to Toronto, for some clients, but he is not licensed as a caterer. He gets a special catering permit.

Mr. Elston: He gets a permit in each location. I wonder if I might follow up on special occasion permits. I note that over the last three years the special occasion permits actually declined in number.

Mr. Blair: You probably saw the editorial in the Ontario Innkeeper. There there was a big hue and cry raised by the president of the association in regard to the "big monster." The monster was something that, in their view, had grown over three years.

The three years are significant in a lot of ways. They happen to coincide with my term as chairman of the Liquor Licence Board of Ontario and also with the departure of Russell Cooper as executive director to assume similar responsibilities with the Ontario Hotel and Motel Associ-

ation. So they were covering their own back-sides.

I have the figures here. There were about 6,000 fewer SOPs issued in the last three years than in the three years before. Figures can be put together to prove whatever you want, but I was rather curious when I saw this. I had our director of special occasion permits prepare the figures on the last six years.

In 1978-79, there were 161,000. The year after that, there were 3,000 fewer and the figure dropped in the next two years. Last year it was

back up to 159,000.

Mr. Chairman: Could we give that to the clerk so he could distribute it to the committee?

Hon. Mr. Elgie: Yes. I think one problem the hotel and licensed people are having is that generally trade is down a bit everywhere. Another problem, as the chairman pointed out, is that there are a lot more people who have licensed premises, so there is a spreading out of activity. In general, there are fewer people spending as much money at licensed establishments and they are feeling that impact. Would you agree with that?

Mr. Blair: Yes.

Hon. Mr. Elgie: I do not know what the answer is to that. You saw from the poll we tabled in the House some years ago, in terms of the public. They are not concerned with people buying alcohol from licensed outlets like Brewers' Retail or the Liquor Control Board of Ontario but they are showing some concern with respect to drinking and driving. That, too, may be part of what we are seeing.

Mr. Elston: Is there any indication people are opting for the larger volume permit? I do not know whether you can follow the amount of beverages actually consumed with these special occassion permits. Are people opting for the \$50 fee because it is really not all that expensive? If the crowd turns out to be large, it will go for whatever the accommodation of the room will allow. Is that a trend? It may be an unfair question.

Mr. Blair: I do not think we have the statistics to say what those figures are, one way or the other.

Hon. Mr. Elgie: We do not know whether there are more people attending, even though the number of licences is changing. That is what you are after.

Mr. Elston: The other thing is an indication of the volume of beverages being consumed, which is the other point raised by the Ontario Hotel and Motel Association. Are people going and drinking more because of lower prices, which is one of the contentions being indicated?

Mr. Blair: The volume of alcoholic beverages being consumed is down.

Mr. Elston: Across the province?

Mr. Blair: If you look at the hotel and motel association, it has in its membership a lot of restaurant owners who are not hotel and motel people at all. It could be very misleading.

If you take the genuine hotels in the smaller towns, the trend is for them to give up their dining room licences because it is impractical. Some of those hotels are old and the lounge or tavern operation is what keeps them going, not the food. That is a break they have because, in relation to other operators, there is no food-liquor ratio to meet.

Along with that, one has to look at the overall picture. They get uptight about the SOPs that are issued. Most of those hotels do not have the facilities to accommodate that type of event and the number of people who are coming. If we look at the cost, a lot of the SOP events are manned, if that is the word you want to use, by volunteer help. You have to look at the whole picture before you draw any conclusions.

Hon. Mr. Elgie: It does not mean you are not looking at ways to tighten up on the SOPs.

Mr. Blair: No.

Hon. Mr. Elgie: Some of their objections, and I think they have some merit, are that it is easier for underage people to drink at those affairs and that the owner of the establishment is not on the licence. Those are some of the things they raise and that you are looking at. Is that right?

Mr. Blair: That is it exactly. That is what we were doing yesterday. I was in Sault Ste. Marie all day yesterday. We were dealing with the Chapleau Recreation Centre. At long last, we are really coming to grips with it. It is municipally owned.

Some of you may know the Chapleau Recreation Centre. I have not been there, but I understand it is quite an elaborate setup for a small town, not that they are not entitled to it, but there is something more than initial cost to deal with over the years.

They have now established a policy that will be set out at the next meeting of council. For all SOP events being held there, the security and the bar will be operated by town employees. That will eliminate a lot of the nonsense that has been going on there in the last 18 months or so.

Mr. Elston: Unless someone else has questions on special occasion permits—

Mr. Chairman: I think the member for Welland-Thorold (Mr. Swart) and the member for Carleton (Mr. Mitchell) have questions. Let us move to the member for Welland-Thorold, then we will move to the member for Carleton and come back to you.

Mr. Swart: I want to go back to something I have raised with you on two or three occasions; that is the matter of special occasion permits for stock car racing events. We seem to have something of a double standard.

All of us are troubled with a certain contradiction in this whole matter of alcoholic beverages. I want to talk about the basic issue itself, the high consumption of alcoholic beverages and what we can perhaps do to reduce it.

9:50 a.m.

On the other hand, I want to point out what I consider some discrimination. We now permit the sale of beer at many sporting events, including horse racing in my area where they race at the Niagara Regional Exhibition and get permits for the sale of beer. To date, at stock car races, which have far more people attending than they do at the horse races, it is not possible to have a beer tent there. It is this discrimination rather than the fact I think they should have them that I really want to deal with.

I realize they have to get permission from the local police. In our area, the local police have not given that permission. The former chief took the attitude, "I am not going to let car racing and alcohol mix." That may be a nice theory, but it is a bit simplistic because there is a strict division between the drivers and the spectators so that I could see no problem. At a number of stock car races which I attend in the United States, of course, it is freely available.

I am not suggesting there are not some people, as there are at the ball games, who get a bit under the influence before the event is over and who create a bit of a nuisance. However, it seems to me that in this sort of general policy, maybe it should not be the chief of police in the area who makes the decision on whether it should be prohibited at the stock car track and available at the horse racing track; maybe there needs to be some policy change if we are going to have fairness in this.

If you say, "No, they are not going to be at any sporting event; we are not going to have them," I will accept that; but this is quite blatant discrimination between one form of racing and

another and I think it ought to be resolved. I would like to have further comments on that.

In fairness, perhaps it would have gone through if the police had agreed to it in that area. Maybe we need some change of policy so the police do not have the final say. To the best of my knowledge, in no way did the police find any fault with the operators. They are legitimate operators and good businessmen. It was just that attitude the police had, "We are not going to let automobile racing and alcohol mix." It is a very simplistic answer, in my view.

Perhaps I can have your comments and the comments of the minister, if he wishes to add anything to it.

Mr. Blair: Regarding the stock car races; in the Ottawa area—I think it is at Stittsville—there is a facility that gets permits and apparently there are no problems. The police and all the other authorities co-operate and everything is fine. It is the same at Cayuga. There is a track there and you are probably familiar with that, Mr. Swart.

Mr. Swart: Yes, I am.

Mr. Blair: The Ontario Provincial Police have jurisdiction there and it has worked out very well. They have a good facility and security is no problem. I guess they got off on the right track.

However, when it comes to the track in your riding, the police are definitely opposed to a permit. Perhaps if there were better facilities at that particular racetrack, although I understand there was a renovation program this year—

Mr. Swart: It is one of the best in Canada now.

Mr. Blair: Is it? I do not know enough about it to offer a comment.

On the other hand, Mosport Park has a hospitality lounge that is regularized by our board, but the chief down there is opposed to anyone getting a special permit at Mosport. When they have had their big meets—and they have been held by different organizations, including the Shriners last year—the police have just said no.

We went down to visit Chief Jon Jenkins. He had slides to show why he was opposed to it. There were some pretty bad-looking scenes on some of them.

Mr. Swart: Mosport has had real problems. It is a different type of racing.

Mr. Blair: Chief Jenkins-

Mr. Chairman: They can stay overnight, which is why-

Mr. Blair: Oh yes, it was just chaos there.

Mr. Swart: Yes.

Mr. Blair: I have no observations to make other than that we have to get the co-operation of the local authorities when there is a special occasion permit, because we are the ones who get blamed for issuing it if a fight breaks out or there is chaos; and it has happened at Humberstone, has it not? Is that the one?

Mr. Swart: It was at Humberstone. Merrick-ville speedway is interested in it as well when it has major races.

Mr. Blair: To complicate the issue, the big day for racing down there was Sunday. We do not like to issue SOPs unless there is food involved. It has to be on a Sunday, and there is just no way that was going to come about.

I asked Jim Puhl, who runs Humberstone, if he could have some other day for racing. I thought perhaps we could work something out. But no, Sunday was the day, because I think various other racetracks draw the crowds—

Mr. Swart: They have a circuit of Friday, Saturday and Sunday, the same cars.

Mr. Blair: That is right. He has not been near me lately; so I guess he has not made his peace with the police chief down there. If the proper control can be exercised and the local authorities will co-operate, I am sure something can be worked out; but if you do not get the police on side, as it were, you are inviting nothing but trouble.

Mr. Swart: Let me just repeat that there is this basic philosophy on the part of the police chief down there. In fact, I believe he has made statements in almost these words: "I am not going to permit alcohol where there is auto racing."

I can see the place of the police in ruling and giving an opinion on the type of operator who runs it. It is the same as any other outlet; if he is not a good operator, if there are going to be major problems because of poor operation and irresponsible management, then I can see them being against it.

I do not think that is the reason down there at all; with either Merrickville—and Merrickville has approached them too—or the Humberstone speedway. It is simply a belief on the part of the chief, as I have said, that alcohol and auto racing do not mix and therefore he is not going to permit it.

It does not seem to me it should be the job of the police chief to express that sort of general policy. It seems to me the job of the chief is to determine whether management is capable of policing this properly. **Mr. Mitchell:** Who deals with the problems on the road?

Mr. Swart: The police; but surely you are not suggesting to me there is a lot more danger of a problem on the road from people coming out of a speedway where they have been able to buy beer than there is from those coming out of a hotel or out of a horse racetrack. There will be a percentage—

Mr. Mitchell: I suggest to you that sporting activities probably create far more problems than the normal hotel operations because of numbers. We are not talking about the same numbers of people.

Mr. Swart: But you allow it up here at the Blue Jay games.

Mr. Mitchell: Beer.

Mr. Swart: I am talking about beer. It is allowed at the horse racetracks and it is allowed at Cayuga. When they have races there they have thousands and thousands of people at their big races, 10,000 or 15,000 people. The tracks I am talking about have 3,000 or 4,000 people; so I do not think your argument is a legitimate one.

What we have is the Ontario Provincial Police saying at Cayuga that in its view it is okay; and we have the chief in the Niagara region saying, "In my view, no, I will not let beer be sold where you have auto racing." There should be a decision on general policy in this ministry, not a policy made by chiefs in different areas of the province.

10 a.m.

Mr. Chairman: You consult the municipalities?

Mr. Blair: That is right.

Mr. Chairman: Do the municipal officials and the council support the chief's attitude? If they do, it is community standard for that area.

Mr. Swart: I think I am right in saying that Port Colborne did approve.

Mr. Blair: That is the regional police. I spoke to Mr. Campbell about it as well, because the chief-it was Harris in those days and it is Gayder now-was echoing the feeling of the Niagara regional council. He did not get involved in it.

Mr. Swart: I think it is true to say the Niagara regional council never discussed it.

Mr. Blair: At a council meeting?

Mr. Swart: Yes.

Mr. Blair: I can imagine that.

Mr. Swart: I will make my point. I do not know whether you want to comment on it. It

seems to me there should be some general government policy or Liquor Licence Board of Ontario policy on those events. For instance, you made the decision on the availability of beer at the baseball stadium.

Mr. Blair: With the consent of the municipality.

Mr. Swart: Do we need the municipality's consent? My understanding is the authority rests with the chief of police.

Mr. Blair: That is something we can review when we are reviewing the regulations.

Hon. Mr. Elgie: It is a difficult issue.

Mr. Blair: Is beer going to be available in a secluded area at these racing events? By "secluded," I mean away from the viewing area of the races. Should it be allowed in the stands? The police at Exhibition Stadium think it should be served in the stands.

Mr. Swart: I suggest either way would be acceptable.

Mr. Chairman: Mr. Swart, how do you address the problem of Sunday, when you should have a meal, which is what the law calls for now. How can you put it in the stands on Sundays without changing the general law? I think Sunday is the problem for you.

Mr. Blair: As far as special occasion permits are concerned, I think what Mr. Swart is getting at is that it could be a special type of licence and not a special occasion permit. We could work on that.

Mr. Swart: In answer to your question, in Port Colborne they were prepared to provide food. I believe the Lions Club or one of the other clubs in Port Colborne was prepared to provide the service; it was prepared to provide food. The one in Merrickville is on Saturday night.

Mr. Chairman: Have you anything further, Mr. Swart?

Mr. Swart: I want to discuss the whole problem of excessive alcohol consumption in our society.

Mr. Chairman: Why do we not move to Mr. Elston and we will come back to you?

Mr. Elston: Mr. Chairman, my comments are brief. I was interested in a letter I have just received from a constituent. This constituent is a marketing sort of person. He gets ideas about how he might best advertise.

He had decided it might be a good idea to have napkin holders with some indication of brand advertised on them. You could have it at the local facilities. It would be decorative, almost like the posters you see hanging around all over the place in licensed establishments. You see little cards sitting on tables.

He received a reply from Labatt's, saying that under the LLBO regulations something that is deemed to be necessary equipment should not have any kind of emblem because it would be too large an inducement held out by the brewers to the local establishment owners.

Can you comment on that? It seems a rather strange way of approaching it. I have not read the regulation, I confess I am not up on that item; however, the chairman might discuss that for a moment.

Mr. Blair: In the past several years there has been quite a change in the approach. In the past year the board has okayed in-house advertising. As long as they are not visible to outside traffic, signs, neon lights or whatever are permissible. Coasters and some of those things are permitted. Of course, for the draught business it must indicate the brand on the handle of the tap. However, items necessary for operating the business are deemed to be out because they could lead to all kinds of abuse.

Many things are taking place in connection with the breweries that we do not like. It is hard to pin down. However, at the moment, items that are deemed to be required for the business operation, glasses included, are not permitted to bear the advertising of a local brewery.

Mr. Elston: I do not quite understand. For instance, in our area, Labatt's is a very large seller. It does not seem to have to do anything to market its products, whereas companies such as Molson's and Carling-O'Keefe are on the road trying to generate business by sponsoring more athletic clubs, not by providing licences or anything like that but by donating some kind of award at the end of a hockey season or something.

Mr. Blair: If you were in another part of the province, it would probably be another brewery.

Mr. Elston: That is right. It seems they have their own areas. However, I do not follow the reasoning on why you could not have ashtrays; they used to be very popular.

Mr. Blair: They are not necessary for the operation of what goes on inside that establishment.

Mr. Elston: No; but as I understand it you are not permitted to use the insignia of a brewery on an ashtray.

Mr. Blair: Ashtrays are all right, but not glasses and those kinds of things that are definitely required.

Mr. Elston: This letter comes from someone named Glen, who is the assistant brand manager at Labatt's; it is addressed to Mr. Dennis Donnelly, who is in charge of community advertising in my area. He says:

"To explain further, we are permitted to place brand-identified tent cards and posters, etc., in premises, but we are not permitted to offer brand-identified ashtrays or glasses. In the eyes of the LLBO, if we became involved with supplying or putting brand identification on 'necessary equipment', we would be offering an unacceptable inducement to the licensee to carry our products."

I can see that with respect to glasses, plates or whatever; they must go through piles of those. However, for ashtrays and napkin holders, it would seem to me to be available space.

What I am getting at is how you define "necessary" and what is so evil about having an insignia on a napkin holder. I suppose you might end up having Molson's, Labatt's and Carling-O'Keefe setting three of them on a table and not having room for anybody's elbows or something.

Mr. Blair: Now you are getting to the point we dealt with when we were considering tent cards. When they were allowed, we left it up to the licensee to determine what was deemed excess material on the tables. He had to exercise some judgement. Usually, tent cards were used to introduce a new brand of wine or beer. They are always bringing out a new light beer or some other brand. They were allowed the tent cards to advertise those.

It is a difficult line. What will wash here would not in another jurisdiction. We compare notes all the time.

Hon. Mr. Elgie: However, you try to draw the line on providing things you have to acquire in the ordinary course of business, which could be seen to induce a licensee to be very selective of a particular product in his purchasing habits. Is that not what it is all about?

Mr. Blair: Yes.

Mr. Elston: What is wrong with that in the system we have? As an example, in my area I understand the proportion of product consumed might be about 60 per cent Labatt's and 30 per cent and 10 per cent for the others. If someone is serving that percentage of product and meeting the tastes of his consumers, he is not going to be induced because he gets an ashtray.

10:10 a.m.

Mr. Blair: Mr. Elston, your observations remind me of a meeting I had last Friday with the

ploughing match people in St. Thomas, in Elgin county, and people from the Ministry of Agriculture and Food, before I came here for the estimates committee.

We are not happy at all with the practice that was carried out at the most recent International Ploughing Match at Teviotdale. There were two big tents there, one run by the Kinsmen and the other by the Knights of Columbus. I went up to have a look at things and I asked what kind of beer they were selling. "We have all kinds of beer. We have Labatt's 50. We have Budweiser. We have Blue and Blue Light." I asked, "What about Molson Canadian or Carlsberg?" They answered, "Oh no, we are not allowed to have those."

We have told them in pretty plain terms, and this is why we had the chairman of the committee come in from Elgin prior to next year's event, that we will not be issuing a special occasion permit until we see in writing the terms those tent holders—and I am talking about the big tents usually run by service clubs—have with the local ploughing match association.

You do not need too much imagination to know precisely what went on this year. With an operation of that size that just will not wash; they have to have several brands available.

Mr. Elston: What you are saying is that either one or the other of those tents was being operated as an extension of the brewery itself.

Mr. Blair: I asked both operators, "Who issues you the special occasion permit; is it Labatt's or the Liquor Licence Board of Ontario?" In both instances, they were happy we were there because they did not like the coercion that preceded the opening of that ploughing match by reason of Labatt's making some special arrangements with the local ploughing association.

Mr. Chairman: One of the problems is that you would have something like in Britain where, just to take your example of Labatt's, that brand has been known in the London area for years and years because of the company's expertise. You would have a one-brand operation, and that is what you do not want to have, one brand in different tayerns.

Hon. Mr. Elgie: We broke away from the tithing principle many years ago. Some think there is a reason to re-examine that, but I do not think there is.

Mr. Elston: I do not want to re-examine that. My question was with respect to napkin holders and ashtrays. It gets a little fine.

Mr. Blair: I just pointed out what can take place and what is, in fact, taking place when you get the Big Three in the brewing industry competing with one another.

Mr. Elston: Really, nobody has to stand up for them.

Mr. Chairman: No, but fair is fair.

Mr. Elston: What do you mean, "fair is fair"?

Mr. Chairman: A little thing like ashtrays could run the average operation \$600 or \$700 a year because of breakage, etc.; so if somebody replaces \$500 for you, it could be construed as an inducement.

Mr. Elston: I think the wise business operator would be able to manage contributions from a number of sources. What I am saying is that with this particular source, it is potentially a revenue earner for the owner. I am sure there are some people who would prefer not to be bothered with the dickering and dealing, but I am sure there are others who would just love to have the opportunity of dealing with their local district distributor to see what could be worked out.

I do not think it is an exceptionally serious problem, but I raised it because it is something I have always wondered about. In the United States there are neon lights flashing all over the place with Budweiser signs in the window and on the streets. You may go in and see all sorts of things on the table, but certainly not in our establishments.

In any event, I think it is worth while to consider what might be termed necessary and what might not if we are looking at allowing the operators a little bit of room. I can understand your concern about the ploughing match, for instance. It sounds as if it might be difficult. I am sure Molson's and Carling-O'Keefe were quite upset because of the volume that probably went through those tents.

Mr. Blair: We do not have any objection to one brewery in western Ontario where Labatt's is prominent, having mainly developed the business, but they should not be the ones who can dictate to the owners that they serve only Labatt's because of some arrangements they made with the local ploughing assocation. This is what we object to.

Mr. Elston: I can see your point. It does not happen in other industries, though. We do allow other industries, not dealing with alcohol, to take over sponsorship of particular events. We do allow it in other business areas. The question is just what is so different about this one other than that we regulate the sale.

Mr. Crosbie: I think one has to go back to the basic prohibition in the act, that a manufacturer of beer cannot have an interest in a licensed establishment. One starts from that premise. One of the continuing thorns in the side of the administration of the Liquor Licence Act is the efforts to influence or get around that limitation.

If they are allowed to provide an indirect subsidy to the licensees, they are in violation, because the act speaks of direct and indirect participation or contribution to the operation. It becomes a judgement call in a sense, I suppose. As the chairman has said, when one looks at the essential elements of an operation, that is where they have drawn the line. One can argue, I think with some certainty, that if a brewer is supplying equipment that is essential to the operation of a licensed establishment, then it is contributing and subsidizing that licensee.

When one talks about advertising on the wall, that is not an essential element. The tent cards are not essential to the running of the licensed establishment. One might argue ashtrays are not essential, but I think they are. They have to have ashtrays. It is a simple question, in my mind, of drawing the line, as the chairman said, on the elements that are necessary to the operation of the business.

If one says, "What is an ashtray? I think it is just a simple thing," next it is: "What is wrong with having glasses? If people want to keep taking away glasses with Labatt's on them and Labatt's wants to keep replacing them, what is wrong with that?" One could keep moving that whole issue up until one has destroyed the intent of the prohibition in the act. This whole area is one we have to wrestle with in the brewpub issue. It is the very issue we are facing in terms of brewpubs, which a few people have an interest in starting. They are really tied houses.

The way they have done it in British Columbia is to make it an individual sort of enterprise, a unique thing that is available in the community. Under certain terms and conditions, it is allowed to operate. One of the terms and conditions is that brands of other breweries are also available. That is one of the issues with which we are wrestling at the very moment.

Mr. Chairman: I think Mr. Swart had another question or two. Before we start, how much time have you available this afternoon?

Mr. Blair: The other day when we were scheduling this I did not want to have to postpone to another day. A few more minutes will not matter here nor there.

Mr. Chairman: We would not want you to speed to wherever you have to go and get a ticket. Mr. Swart has a few questions.

Mr. Swart: I want to say to Mr. Blair that the comments I want to make are perhaps more directed to the minister and the policy field. If he feels he wants to leave now, that is okay with me.

Mr. Chairman: Mr. Mitchell, do you have a question for Mr. Blair?

Mr. Mitchell: Just by way of comment, I wanted to say thank you, because I certainly have had nothing but the best of co-operation from Willis's operations.

Mr. Chairman: Mr. Blair, thank you very much. We can excuse you. We know you have another appointment. On behalf of the committee members, thank you for coming. We will look forward to seeing you next year.

Mr. Elston: Would the chairman like a copy of the latest submission from the Ontario hotel people? It just arrived in my office.

Mr. Blair: I have that, thank you.

Mr. Swart: I wanted to take the opportunity in these estimates to express my concern, and I am sure the concern of everyone, about the high consumption of alcohol in this province and throughout Canada and the methods that might be used to reduce this.

10:20 a.m.

I realize the conflicts. All of us feel them and see them. On the one hand, there is the right of individuals to do what they like in the consumption of alcoholic beverages and, on the other hand, the real problems that exist in our society because of the increasing use over decades of alcoholic beverages, both in average consumption and in the number of people who use alcoholic beverages. I would like to put some statistics on the record with which we may all be familiar.

A Gallup poll in April 1984 shows that since 1943 the percentage of people using alcoholic beverages has gone up from something like 59 per cent to 79 per cent. The consumption of alcohol has increased quite dramatically. Going back much further, the statistics put out by the Addiction Research Foundation show the average consumption of alcohol per year, in litres, by people 15 years and over, has gone up from about three litres in the early 1930s to something like 11.5 litres at the present time.

I think it is probably true to say that in the last two or three years it has not increased; it has been fairly stable. That is probably more because of economic reasons than because of less desire or any self-discipline. The problems related to it have increased proportionately with the increase in the consumption of alcohol and the number of people who are using it. Ontario is one of the provinces that has a somewhat higher consumption.

I have a report on the statistics on alcohol and drug use published by the Addiction Research Foundation. It makes such comments as these: "For each person aged 15 and over, Ontario consumption reached 11.5 litres annually or 13 drinks per week. This continued to exceed the national consumption.

"The number of deaths in Canada classified as directly attributable to alcohol reached 3,512 in 1979 and 3,458 in 1980.

"In 1979 the number of alcoholics in Canada was estimated at about 605,300, with some 222,000 of those being in Ontario. Mental health statistics indicate that in Canada the total number of admissions and readmissions for alcoholism were 9,746 admissions and 7,548 readmissions in 1978," which was the latest year for which they had statistics.

"A total of 1,734 beneficiaries received disability pensions for alcohol-related conditions during a one-month period in 1980. Most of these pensions were payable for liver cirrhosis.

"Under motor vehicle accidents, in 1979 the blood alcohol concentration levels of 60 per cent of individuals involved in the 3,612 fatal accidents in Canada were tested. Of fatalities tested, 58 per cent indicated the presence of alcohol.

"It is estimated that some \$320 million was spent in Ontario in 1976 for medical treatment for alcohol-related problems. Some \$75 million represent losses in manufacturing due to reduced labour activity, with an additional \$3 million representing wages and salaries payable for time lost from work due to alcohol-related illnesses as a result of heavy alcohol consumption in Ontario in 1977."

That gives some indication of the major problems we have in our society from excessive use of alcohol; granted, not by all drinkers and not by the majority of drinkers. However, there is no question that, as the consumption of alcohol increases and more people use it, all these problems increase proportionately or even to a greater extent than the increase.

We are all kind of schizophrenic about this. In the survey done by the ministry, as the minister knows, there are some really contradictory indications. First of all, there was a finding that 69 per cent of the people interviewed felt the drinking age should be raised to 21.

I am not sure of the logic behind that. I am not sure how one enforces it. I remember the debate in the Legislature. Perhaps the minister would like to comment on whether any changes in the drinking age are contemplated, but the polls show very clearly that the general public wants the age raised. They recognize the very real problem.

However, I have some very real doubts whether this is the answer and whether there is fairness in that. We issue driving permits to people when they reach the age of 16, and we know very well the young drivers have more accidents than older drivers, yet in fairness we think we should permit them to have a driver's licence. Are we going to say you cannot drink until you are 21? And if we say that, how do we enforce it?

There is a problem with that. I think the public out there is grasping at something and is not too sure what it may be grasping, but it recognizes the real problems concerned with alcohol consumption in our society.

I myself am inclined to think, and perhaps the minister will comment on this, that we have permitted the consumption of alcohol to be glamourized. I do not think any of us is talking about prohibition, but I wonder if we do not have to take a look at the whole promotion of the consumption of alcohol.

With regard to smoking, I can recall the kinds of promotion we have had over the years, that it was acceptable and the thing to do, if I may put it in those terms. If you were anybody and if you were going to be mature, you had to smoke. I think it is accepted now that this is not the thing to do in our society. One of the reasons has been that we have cut out the glamourization of smoking on television. There are some people who still have the habit and cannot break it even with all the knowledge they may have about it, but generally speaking, there are fewer people starting to smoke now.

Mr. Elston: That is a personal attack.

Mr. Swart: Very seriously, it is something I am sure the minister will agree society has to be concerned about. We talk about laws on drunk driving. I had the occasion to speak to a group against drunk driving last winter or early spring. I went into the laws that are enforced in various countries in the world, and there just does not seem to be any way of stopping drunk driving, even in England and in Sweden where they have passed the tough laws.

Hon. Mr. Elgie: They worked for a while.

Mr. Swart: Yes, they worked for three or six months. Then the number of accidents related to drunk driving increased back to the same percentage. In Finland, as you probably know, they take drivers' licences away for life from people who have, I believe, even a second offence of drunk driving. It has not solved the problem over there.

I am afraid the simple facts are that once a person has two, three, four, five or six drinks, he does not have the judgement or the reasoning power to know he should not be driving, so he goes out and drives, and it does not seem to matter how strict one tries to make the enforcement. The experience all over the world shows that there really is no way of solving it and that the number of drunk drivers is related to the consumption of alcohol and the number of people who drink.

10:30 a.m.

It seems to me we have to start on a program of deglamourization of the use of alcohol. I think its real face has to be shown, which is not the case at present. It may be an extreme measure, but we should look at these things. It may be we will have to ban advertising, on TV particularly and maybe on radio, of the sale of alcohol.

I wanted to raise this general principle because I am sure it is of concern to you, as a member of a government, and it has to be of concern to all of us. It is taking a tremendous toll in health, in lost lives and in lost productivity. Difficult as it is, it has to be addressed. I would like your comments on that.

Hon. Mr. Elgie: I do not think there is too much argument with the concern everyone has about drinking and driving. I am with you in that I think when we raised the drinking age from 18 to 19 we did it for a specific reason, to get access to alcohol out of the high schools.

I find the view that the age should be raised to 21 very simplistic in that it does not acknowledge the way society is out there. We have 19-year-olds, 20-year-olds and 21-year-olds who are married and working, some with families. I think we would have a great problem enforcing it. When laws are passed that are going to be difficult to enforce, then we have to wonder about their merit.

Mr. Swart: And the fairness of it.

Hon. Mr. Elgie: And the fairness of it.

I do not think, however, it is something we can automatically write off. I find it a bit of an anachronism, as you do, that one can get a driver's licence at 16 and then these other rules are laid down. Even though by the age of 20 an individual may be working and raising a family, and even though he can vote and do all the other things that come with majority, you are saying because he is not 21 he cannot drink. That would be a difficult law to enforce.

I think the government has tried to take a multiple approach in the past. The board has never got into the actual marketing of alcohol. I think the deputy minister will concur that in the past we have always looked on the sale of alcohol as a passive role played by the Liquor Control Board of Ontario, without all the falderal advertising that may go along with it in stores to encourage people to buy certain products. We have tried to make it a passive role. Liquor is sold at outlets that are not in the business of marketing.

I tend to agree with you that in other countries, where they have tried to pass tough laws, there has been an immediate response but there has also been a period of recidivism. I was talking to Chief Ackroyd about the Christmas reduce impaired driving everywhere program. He was quite astounded at the impact RIDE had on the number of people who were stopped and who did not, in percentage terms, show any evidence of alcohol.

There was a significant drop last Christmas over the year before. Even though they stopped 20 or 30 per cent more people, they found something like 30 or 40 per cent fewer people showed any evidence of alcohol. I am a great believer in that kind of program, where people are faced with the possibility of being stopped on the highway.

Mr. Swart: Do you not think that works for a short period, when it is known there is going to be extra drinking? If you tried to enforce it all during the year, as in other countries, it might not work.

Hon. Mr. Elgie: I do not know the answer to that. I know in other countries, where they have toughened up, there has been recidivism.

The members of the board-at least Mr. Conroy of the liquor licence board-have met with the Attorney General (Mr. McMurtry), myself and the Minister of Health (Mr. Norton) to discuss this whole issue of lifestyle advertising. The Attorney General and I have a meeting scheduled with the board about this issue of lifestyle advertising. The board has already taken certain steps over past years to try to dissociate performance of the sport or recreation from the

consumption of alcohol. Is that a fair way of putting it?

In other words, if there is to be any advertising of alcohol it must take place after the event is over. I think there are still many in this society who feel that constitutes a form of lifestyle advertising that all the—

Mr. Elston: I know all the constituents in my area go out and fly balloons and ride motor skis across bays.

Hon. Mr. Elgie: As you know, the Attorney General and the Minister of Health have set up a countermeasures office with respect to drinking and driving. All three of us have great interest in this issue of advertising and we are having a meeting with the board shortly to discuss the issue.

Let us not kid ourselves that, even if the most strict enforcement took place, we still would not get the same. If we look at the channels people are watching on television, a high proportion are watching American stations. You are not going to alter that type of advertising. Indeed, if we put in place regulations and guidelines that are very stringent we might have some of our distillers move their advertising across the border.

Having said all that, we do feel it is an issue that has to be discussed with the board and perhaps with the industry at large. As you have commented, it is an interesting statistic that the consumption of alcohol has either levelled off or, from the latest figures I have seen, gone down slightly.

All the advertising we are seeing is a battle for market share, not advertising to increase consumption. Even if it aims at that, it is not achieving that goal, so we are seeing a battle for market share.

We are exploring a number of areas. I think the main one at which we are looking at the moment is discussion with the board on lifestyle advertising.

Mr. Swart: Have you considered the funding of organizations, whether it is Alcohol and Drug Concerns Inc. or whatever it may be, with regard to counteradvertising and doing much more in the way of programs and education?

Hon. Mr. Elgie: I think the Minister of Health told me some months ago they were about to embark on a rather extensive anti-drinking advertising campaign.

Mr. Swart: I have noticed some good ads on the subway. There is a picture of a young girl: "Is your drinking hurting her?" I am not sure those are the exact words. There is so much more that can be done. It is only a drop compared to the glamorization that has been taking place with the

lifestyle advertising and so on.

It seems to me what you say is correct. There is some validity to the fact we have no control over the American advertising that floods into populated parts of Ontario and Canada. The alternative, then, is to do counteradvertising about the effects of alcohol—I know we do not do these kinds of things—showing people on skid road and sick and all the rest of it, comparing that to the lifestyle advertising about young people and sports.

Hon. Mr. Elgie: You are talking about "preserve it, conserve it" type advertising.

Mr. Chairman: Are you asking for more government advertising? Is that what you are saying?

Mr. Swart: You will recall I said the funding of organizations such as Alcohol and Drug Concerns and those kinds of organization.

Hon. Mr. Elgie: The Addiction Research Foundation is funded by the government.

Mr. Swart: Alcohol and Drug Concerns is not, is it?

I am talking very seriously, whether it is a percentage of the revenue, whether there is a special levy against the brewers and distillers, whatever way it is done, I think in the long run it will save society a lot of money. I think we have to deglamorize it.

10:40 a.m.

Mr. Chairman: Do we not have a problem with the brewing industry spending about \$50 million in its advertising programs? How much do you think we would have to spend to counteract the effects—

Mr. Swart: Probably \$50 million.

Mr. Chairman: So you are advocating more government advertising.

Mr. Newman: How about a tax on the advertising then? If the advertising is alcohol related or related to something similar to this we could increase that tax.

Hon. Mr. Elgie: It is all going to be passed on to the consumer. Whatever you suggest, it is going to be passed on to the consumer.

Mr. Elston: I have noted on US television, again, which you mentioned, the type of advertising you get generally with respect to beer is almost like a sitcom situation, more so than the lifestyle which we have in Ontario which shows the ballooning and the skiing and all sorts of semi-exotic activities.

On New York television last night I noticed one advertisement in which they did present individual capsules of what is happening in a family situation with respect to a drunken father. There was a teenager sneaking out of the house and running to a place to get a bottle of beer or something to get himself to school or whatever. It is a shocking situation.

Perhaps you would not have to match \$50 million dollar for dollar if there were some more realistic presentations in the advertising presented by the brewer. All the people in those advertisements are, if I may use the term, "pretty people." There is no representation of people who become overweight or who have health problems involved in these activities.

That is a side which could be displayed with more realistic consequences for the viewer than having to match ads on a dollar-for-dollar basis. Anyway, I just wanted to make those comments.

Mr. Chairman: Mr. Newman, I believe you had a question or two you wanted to put.

Mr. Newman: Yes, I wanted to ask of the ministry if it would permit organizations, such as the Goodfellows in the city of Windsor, that provide a lot of food baskets to the financially disadvantaged, the poor in the community, to have in the Brewers' Retail stores and the liquor stores just one month or so before Christmas a little container into which the purchaser of the product can come along and make a nice little financial contribution so the Goodfellows could provide shoes and miscellaneous items to the disadvantaged in the community. Have the Goodfellows been given that opportunity this year again?

Mr. Blair: That comes under the Liquor Control Board of Ontario, not under the Liquor Licence Board of Ontario.

Mr. Newman: Okay.

Mr. Blair: Goodfellows, I gather, is an organization with that name.

Mr. Newman: Right, a charitable organization

Mr. Blair: The Salvation Army is usually right there at Christmas time outside the liquor store or the beer store—or inside maybe.

Mr. Newman: These are inside the store.

Mr. Blair: They are inside now, too, in the Toronto area. I do know not what happens in other municipalities.

Mr. Newman: They have had that privilege in the past and I understand it is being denied them

or they have not heard from the LCBO or whatever branch handles that.

Hon. Mr. Elgie: I recently had a complaint about poppy displays and I have asked one of my staff to get in touch with the LCBO to let me know what their policies are.

Mr. Newman: They do allow certain organizations to put their containers in the stores, or they have in the past. I am actually speaking for the Goodfellows, which is a completely different organization. This is their whole source of revenue during the Christmas season for the disadvantaged in the community.

I certainly think they should be given that privilege and not have to worry every year as to whether they are going to have a chance to put their containers in. I know a lot of other good charitable organizations are probably asking for the same thing.

Hon. Mr. Elgie: That is probably the issue they face, the number of organizations—good ones, in fact—

Mr. Newman: Yes, I accept that. I should not say that what the Goodfellows are doing during that given period of time is more meritorious than others, they are all doing something good for the community, but I have a little warm spot for this particular group.

Hon. Mr. Elgie: You have a soft spot in your community for that one?

Mr. Chairman: Are there any further questions of the minister? If not, possibly we could take a few moments to deal with—

Hon. Mr. Elgie: Financial institutions.

Mr. Chairman: Before we go to financial institutions, I would like to pass a few of the votes that we are possibly not going to get to. We are presently at vote 1607, the liquor licence program, item 1, which we have just discussed. If there are no further questions, I would like to carry vote 1607.

Item 1 agreed to.

Vote 1607 agreed to.

Mr. Chairman: I would like to move now to vote 1608-actually, I believe, that has been carried.

Votes 1603 to 1605, inclusive, agreed to.

On vote 1602, commercial standards program: **Mr. Chairman:** We now come back, basi-

Mr. Chairman: We now come back, basically, to vote 1602. There were a few items we did not carry.

Items 5 and 7 agreed to.

Vote 1602 agreed to.

On vote 1601, ministry administration program; item 2, financial services:

Mr. Chairman: That brings us back to financial institutions which we wanted to discuss for a few moments with the Housing and Urban Development Association of Canada. You were waiting for the member for Etobicoke (Mr. Philip) to arrive.

Mr. Swart: Yes, I have just had word, I will tell you that—

Mr. Elston: I had some questions concerning credit unions which I had not finished the last day when we broke off.

Hon. Mr. Elgie: They are all here.

Mr. Chairman: They are all here? If that is the case—

Hon. Mr. Elgie: I would have Mr. McIntyre join us up here too, please. Since we going to financial institutions, could Jim Wilbee, Murray Thompson and Don Reid come up to the table.

Mr. Chairman: Gentlemen, as soon as you are seated, would you please, for the record, tell us your names and your individual positions.

Mr. Thompson: Murray Thompson, superintendant of insurance.

Mr. Wilbee: Jim Wilbee, superintendent of deposit-taking institutions.

Mr. Robins: Tom Robins, director of credit unions and co-operatives.

Mr. McIntyre: George McIntyre, assistant deputy minister, financial institutions division.

Mr. Reid: Donald Reid, acting director, loan and trust corporations.

Mr. Elston: My points are directed towards the credit union question in particular. They concern a couple of issues that have been raised in dealing with the question of a fellow by the name of Lukovich and his action against CUNA.

I am not speaking particularly about the merits of the action or anything, but I am interested in some of the concerns which have been addressed to us with respect to the ability of the particular litigant to obtain not only the names of the members of the credit union but also the addresses of the people so he might address the membership with respect to concerns he has.

I wonder if you might talk to us a little bit at this point about the policy with respect to freedom of information for people to deal with the membership. I understand that has been a serious point of difficulty in this particular matter.

10:50 a.m.

Mr. Robins: Mr. Chairman, perhaps we could just talk generally because the situation relating to Lukovich and CUNA is before the courts.

The legislation is very clear in that it allows members to have access to only the names of their fellow members and not the addresses. Maybe that is a shortcoming in the act, but the legal opinions we have received tend to confirm the fact that it is specifically related to names and the members cannot in actual fact obtain access to the addresses of the individual members.

Mr. Elston: Did someone in the Attorney General's office provide you with that opinion?

Mr. Robins: Yes.

Mr. Elston: How, in a situation such as the CUNA case, might an individual member contact fellow members of a particular credit union to advise them of difficulties he sees in the operation of the business? I presume he has to rely on the goodwill and faith of the management. Is that correct?

Mr. Robins: The way the act is worded, that is correct.

Mr. Elston: If the management does not choose to provide that information, what activity can a credit union member undertake?

Mr. Robins: It depends on the severity of the problem. If it were going before the court, I am sure he or she would be able to get a court order to release that sort of information. The situation you are talking about, as I indicated at the beginning, is before the courts, which makes that situation very difficult.

Mr. Elston: I do not want you to comment on the particular case but, in general terms, if I as a member determine there is a particular liability of a credit union outstanding which concerns me and about which I wish to have some action taken by management, then I am really powerless to do anything to gain anyone's attention, except perhaps your own or management at the local level.

Mr. Robins: That is not altogether true. There is the annual general meeting when these issues are raised. Also, if it is a significant problem, the auditor will comment in his audit certificate.

I believe there is a reference in the annual report to the issue you are talking about. Generally speaking, because most credit unions are based on some form of fairly close bond, it is normally not that difficult to obtain the names, and the addresses for that matter, of the people you know are needed to call a special general meeting to discuss it.

Mr. Elston: What is your role now? If I find I am stymied somehow, I do not want to take anyone to court merely to get some addresses so I can communicate with my fellow members. It seems to me in a credit union, one that is looked upon as a community activity, a getting together of individuals for their own benefit, there should be some way of communicating directly without relying upon the good graces of management.

What could you do in this situation? Can you do anything in a situation where there seems to be a problem between the membership and the

management?

Mr. Robins: We have a number of requests over the course of a year on specific issues, whether it be problems with a mortgages, problems with loans or problems with the insurance aspects that are associated with some loans.

We generally achieve the co-operation of the credit union to resolve those specific issues. Where there are other difficulties they have generally gone to the courts. There are about half a dozen specific issues before the courts at present.

Mr. Elston: Do you have any statistics or do you have any report on what percentage of people in a credit union attend the annual meeting? Is it similar to a lot of the large organizations where they end up having a handful of interested parties with a number of proxies being submitted back to management for voting if there are any resolutions in front of the meeting?

Mr. Robins: Proxies are not permitted.

Mr. Elston: They are not permitted.

Mr. Robins: We do not get statistics, but the bylaws generally specify the minimum number of members. It depends very much on the credit union or caisse populaire. Some of them get 200 or 300 members out, which may still be a small number in relation to the total membership. Others may only get the quorum.

The community bond credit unions probably have fewer members attend than the closed bond, particularly if the closed bond is associated with an office, a factory or an institution, such as Hepcoe is over the road. It depends very much on the type of credit union.

Mr. Elston: Are you actively considering the question of opening up the act to allow better access so members can contact each other?

Mr. Robins: When particular problems come up we keep a file of those problems. Some can be related to the names you are suggesting. Others have related to the type of loans being made, the

loan limits and so on. When there are sufficient problems, I normally make a recommendation through my superiors to the minister to the effect that it may be time to adjust the legislation to meet the concerns that have arisen. Normally, if it is only a one- or two-item problem, it is still up to a decision by the minister as to whether it is considered desirable to take the time of the House.

Mr. Elston: I would hope he would have the good judgement to follow the suggestion of the person riding herd over this field.

Hon. Mr. Elgie: If I may interject, I find it difficult to accept that the legislation now allows members of a credit union to obtain only the names of other members and not their addresses. Personally, I think it is an issue we need to look at and address, because it seems illogical that you can have a name but then you cannot figure out how to contact the person.

now to contact the person

It is not a problem in closely knit credit unions where everybody knows everybody; they work in the same hospital or in the same unit of this or that. However, it has come to our attention that there are situations where you cannot get the names and addresses of all the members, and I think it is something we have to look at and consider addressing.

Mr. Elston: It is important where there are liabilities outstanding with litigation or whatever, particularly in a situation where the liability may be increased by litigation that involves a credit union. Perhaps that is the time you might want members to be able to have some active role in providing direction to management when it becomes locked into a course of action that might well take the financial institution to its knees.

That is really the issue, the opportunity of getting the information in a timely fashion to deal with internal problems. I thank the minister for his comments concerning the need for review. I look forward to seeing that take place. I think those are all the questions I have. I cut my questions short so—

Mr. McIntyre: Can I ask a question?

Mr. Elston: Sure.

Mr. McIntyre: When you talk about management, are you talking about the board of directors and management as being one and the same?

Mr. Elston: Yes. I included those; I lumped those together.

Mr. McIntyre: I hope you know there is some vigour and difference between the two.

Mr. Elston: Yes. On occasion in my previous profession, I have helped to fill out applications

when we went through the whole series and then went through the meetings as well. I am aware of some of the pros and cons that go through.

Mr. McIntyre: It is to be hoped that the members will feel free to communicate their concerns to the board, if necessary, assuming the board is autonomous and is doing a responsible job for the members, and that if they are not getting satisfaction at the management level, they will use that forum to bring it out.

11 a.m.

Mr. Elston: That is a good point. However. boards of directors in these public sorts of institutions, when things are becoming so complicated today, have lost some of their enthusiasm and drive in dealing effectively with the management side of things. It is not only in credit unions and other financial institutions but also in all institutions where the budgets have expanded by such a percentage that people will take almost without question the word of the person who has been dealing with the problem over the course of five, six, eight or 10 years, whereas one member of the board may come on as a new member this year, another guy may have been on for five years and another fellow has just retired after having been one of the founding board members.

It is a difficult thing for boards of directors at these sorts of institutions to feel they can handle all the intricacies of operating and questioning the operations of the institutions. I do not know how you deal specifically with that trouble, but it is one that is affecting the operation of hospital boards, for example.

In some cases, the boards of directors are starting to feel somewhat powerless when it comes to dealing with the information that is available. Sometimes they will get all kinds of information, but it will not be the relevant stuff, or they may not be given the one key item that might make them suspect something might not be going properly.

I appreciate what you are saying, but I would also like you to understand that I think our society and institutions are operating in such a tremendously and increasingly complex manner that the idea the board is in full control is not always

appropriate.

Mr. McIntyre: I agree with you that when you have a diverse number of shareholders or interested owners, the power base usually slides to the management side, because you do not have the strong entrepreneurial attention coming from the side of the owners. As the power develops and the longevity of the people on the management side develops, I guess the question you are

bringing up is, can the instant directors, or possibly even some of the more savoir-faire directors, handle the intelligence between the two appropriately? It is a good question.

Mr. Elston: If the management people are particularly capable, they know exactly which people they can deal with more effectively than others on a board. Effectively, they can manage the board as well as the organization to a certain extent. Perhaps this is a time when there has to be increased observation through the ministry. That is a side issue.

Mr. McIntyre: We will look into the minister's views and your suggestions on that communication to the members. That is important.

Mr. Chairman: I would like to pass vote 1602, item 3, financial institutions. Shall item 3 carry?

Mr. Elston: I would like to ask one short question on cemeteries with respect to the amount of money that is raised as a levy for cemeteries. Can somebody here deal with that? Mr. Thompson, do you cover insurance on cemeteries?

Mr. Thompson: Yes.

Mr. Elston: I hope they are not both dying businesses. I am interested in cemeteries from the point of view that you take a levy, as I understand it, provincially on the plots in the province. Is that right? Is there a trust fund that you accumulate?

Mr. Thompson: No. There is a requirement under the Cemeteries Act, and it is really for our involvement, that 35 per cent of the price of the lot is held by the cemetery owner in a trust fund. Our primary function is to examine the cemetery owner's trust fund to ensure that it is maintained.

Mr. Elston: I believe those are basically being turned over to trust companies and long-running agreements have been established in most cases. Is that correct?

Mr. Thompson: They have in most cases.

Mr. Elston: In some there are not?

Mr. Thompson: They can be with private trustees as well. In most cases, because of their perpetual care funds and the need for perpetuity, they are with trust companies.

Mr. Elston: We are hoping the trust companies survive longer than the cemeteries.

Mr. Thompson: Yes.

Mr. Elston: How many cemeteries have you had fail as far as that perpetual trust is concerned? Are there any in the province?

Mr. Thompson: No, not at all. They are very well maintained and kept. In most cases there is no problem.

Mr. Elston: With that 35 per cent that is being withheld out of the sale, is it your experience that those funds are accumulating rather than staying at a plateau? One board in my area that is independent and totally church-oriented was concerned that it had to hold back this 35 per cent. I do not know what their lots sell for, but they were hoping to make some improvements to the cemetery, although not necessarily in the way they thought they could apply the trust funds. They felt it was difficult for them to manoeuvre with that requirement to hold this 35 per cent back. I know that was one problem that was mentioned to me.

Mr. Thompson: That is a problem, because these are called perpetual care funds and they are designed for the point in time when the cemetery becomes filled. If it is a privately owned cemetery, it will have no income coming in; so how is it going to be maintained? It is not selling lots. The ultimate objective is to ensure that fund is there to keep the cemetery in reasonable condition over the years.

Mr. Elston: If I sold a plot today and I had my 35 per cent, I presume I would use the income from that 35 per cent to do whatever maintenance was needed, otherwise this money will sit there for a long time.

Mr. Thompson: Yes, it will.

Mr. Elston: Is there any way of applying to the ministry for permission to expend part of the fund?

Mr. Thompson: Yes. You could apply to Don McLauchlin, who is the chief cemeteries officer in the ministry.

Mr. Elston: They could make some arrangement if there was a project that was deemed to be in the public interest of that cemetery.

Mr. Thompson: Yes.

Mr. Elston: Can a private cemetery expropriate if it finds itself becoming short in space?

Mr. Thompson: No. They do not have any right of expropriation.

Mr. Elston: Unless they were hooked up with the municipality.

Mr. Thompson: They would have to deal with the municipality.

Mr. Elston: If they have one of these lots that is locked in and they cannot deal effectively with the local person, then they must close up as soon as they are filled.

Mr. Thompson: Yes. The tendency is to buy another cemetery or to create another cemetery in the suburbs.

Mr. Elston: The time they close is the time this perpetual fund would be looked to so as to deal with closing it properly.

Mr. Thompson: Yes.

Mr. Elston: If they close it and the trustees want to disband, to whom do they hand whatever is left of the fund?

Mr. Thompson: They can hand it to the public trustee.

Mr. Elston: Will he look after the cemetery?

Mr. Thompson: Yes. He will appoint someone.

Mr. Elston: In a lot of rural areas we have the pioneer cemeteries. Some of them are well taken care of by the local townships, which seem to have taken them over. In other cases we have groups of eight or 10–

Mr. Swart: On a point of order, Mr. Chairman: We were supposed to start the Housing and Urban Development Association of Canada at 11.

Mr. Elston: I will ask this last question and then I will-

Mr. Swart: We are running out of time. We have only half an hour left.

Mr. Chairman: You asked for a half an hour, Mr. Swart. We close at 11:40; so I was going to give Mr. Elston a few more minutes. But please, Mr. Elston, conclude as soon as you can.

Mr. Elston: This is the last question. With respect to the keeping of the so-called pioneer cemeteries, is there any activity by the ministry to deal with those if they have been neglected? A lot of them are well kept, but there are some that are in an absolute shambles.

Mr. Thompson: Yes, we do, and we turn to the owner. A lot of the pioneer cemeteries are taken over by municipalities, because there is usually an interest in preserving something that is indicative of part of a municipality's heritage. In most cases the owner becomes the municipality.

Mr. Elston: In most cases, then, those are looked upon as being municipal cemeteries for the purposes of any questions of funding. There has to be a local initiative to fund the maintenance and care. You do not have an overall provincial fund from which money can be used to repair tombstones or cairns that have been broken or anything like that?

Mr. Thompson: No, we do not.

Mr. Elston: Thank you.

11:10 a.m.

Mr. Chairman: Mr. McIntyre, gentlemen, thank you very much for being with us.

Before we go on, Mr. Swart, you had asked a question on insurance rates, which I understand Mr. Thompson is ready to reply to. Do you want that reply, or do you want to go to HUDAC? It is your question.

Mr. Swart: I am not sure whether he can give that reply in writing. If he can, that will be satisfactory because of the shortage of time.

Mr. Thompson: I can.

Mr. Chairman: That is fine.

Item 3 agreed to.

Vote 1606 agreed to.

On vote 1602, commercial standards program; item 6, business practices:

Mr. Chairman: We would like to reopen business practices and have a little discussion about HUDAC. I believe we have Mr. Simpson here.

Mr. Swart: Mr. Chairman, Mr. Philip will take the lead on this; however, there is one item that I would like to discuss for five or 10 minutes at the end.

Mr. Chairman: Has anyone else anything to discuss? Murray, do you have anything to discuss at the end of the meeting? Mel wants five or 10 minutes to discuss another matter.

Mr. Elston: Yes, I have a couple of items—one item in particular.

Mr. Chairman: All right; five minutes. That takes up about 15 minutes until about 25 after. Mr. Simpson, carry on. I am sorry. Will you please identify yourself?

Mr. Simpson: My name is Bob Simpson, executive director of business practices.

Mr. Chairman: Mr. Philip has joined us. He has a few questions on HUDAC.

Mr. Philip: Mr. Chairman, it is too bad the HUDAC officials are not here, because they are so much easier to dislike than Mr. Simpson, who always tries to do his best for us. Nonetheless—

Hon. Mr. Elgie: Just to clarify that, we were advised just this morning—

Mr. Philip: I recognize that; I appreciate that also.

Mr. Elston: Excuse me. I would like to say that whenever I have called those folks, and I have some difficult situations with constituents, I have found that most of those people have been

open with me. I do not know; maybe you want to tell us what your lack of co-operation is.

Mr. Chairman: Let us get to the questioning, and we will get to that later.

Mr. Philip: I am afraid the only way I ever get anything out of HUDAC is to go through Mr. Simpson.

I have a question to the minister. Statements were made in the media not so long ago that you were in the process of reviewing the HUDAC new home warranty program and that some changes were planned. Are those statements accurate? Are there going to be any changes that you contemplate at present?

Hon. Mr. Elgie: Yes.

Mr. Philip: Can you tell us whether they are to be changes by regulation or by legislation?

Hon. Mr. Elgie: Legislation.

Mr. Philip: When can we expect the new bill to come forward?

Hon. Mr. Elgie: What stage is this at?

Mr. Simpson: Subject to all the processes, I would expect the new bill to come forward this spring.

Hon. Mr. Elgie: I think we have reached some understandings about principles. They will now go to the policy committee, then the cabinet committee on justice and then the cabinet. If there is approval for the process, they should be ready for introduction in the spring.

Mr. Philip: Can you tell us whether any of those changes are based on some of the criticism that was initiated primarily by Mississauga Mayor Hazel McCallion but came from other municipalities that Mississauga had contacted, such as the town of Markham?

Mr. Simpson: The matters being discussed are the product of the whole history of the program: 200,000 enrolments; the pattern of problems over the years; the issues that have arisen everywhere; matters brought up by members of the Legislature, by members of the program, by the board of directors and by the industry; and so on. They do not reflect a particular centre of interest with respect to where things came from.

Mr. Philip: Does the minister or Mr. Simpson agree that the criticisms emanating from Mayor McCallion and the other municipalities have some validity? Might they form some of the necessary corrections in the legislation?

Mr. Simpson: Certainly.

Hon. Mr. Elgie: I do not have those specific issues in mind. Do you?

Mr. Philip: Shall I go through a few of them with you? Then you can tell me whether you feel they are valid.

One of the criticisms is that the warranty plan appears to apply to code items only and this is not satisfactory in the minds of buyers who expect the complete home to be constructed in good workman-like order and free of defects. I think I have given an almost exact quote from their statement. Are there plans to extend the scope of the warranty?

Hon. Mr. Elgie: I cannot recall exactly what is included with this.

Mr. Simpson: I can. However, I think we are now in that difficult area. If I indicate what it is, I am talking about the process of policy-making, approval and so on. It is hard to answer without wandering into the general policy question.

Hon. Mr. Elgie: All I can say is there are a large number of items that are involved in discussions with the industry, and staff has been engaged in that. I will now take their proposals to policy in cabinet. It is difficult for me to say what that package contains—in other words, what the legislation will contain—in the absence of that process. However, I can assure you we have had broad-ranging discussions.

Mr. Elston: We will have to ask the leadership candidates.

Hon. Mr. Elgie: They will not know, at least not yet.

Mr. Philip: I am not asking you to table the legislation with us before it goes to cabinet. I am asking you whether you are concerned about whether the present plan has enough scope. I am not asking you to say exactly how wide you want it to be. That is a cabinet decision. However, do you feel it covers enough, or should it be expanded?

Hon. Mr. Elgie: I think it is fair to say the proposals I will be looking at will expand the coverage and the scope.

Mr. Philip: Okay. Most people who contract for a home put in extras. These may be carpets, cupboards, an added balcony, an extension of the model by so many feet, or something like that. Currently, under the home warranty program, those items are not covered.

That has been a major criticism. The owner thinks he has purchased the home. He has signed and paid an extra \$12,000 or \$15,000 for it in return for getting some extra things. It may be a fancy banister, rather than a plain one, which boosts the price by \$500 or \$600.

Suddenly, he arrives and finds there is shoddy workmanship on those items that are part of his original purchase contract, but may not have been in the original show model that was offered at X number of dollars. Do you feel those items covered under the purchase contract should also be covered under the warranty?

11:20 a.m.

Hon. Mr. Elgie: Again, I can only say we are in the process now of preparing proposals to go to policy field and then cabinet. As you can appreciate, I am not in a position to say what those will cover until I get them approved. I am not trying to be obstructive; I am just trying to accept the process and the way it works in government. In the unlikely but possible day when you will be carrying this, you will understand that is the process one has to go through before one makes pronouncements about policy changes in any particular legislation.

Mr. Elston: No, it will be another Mulroney. Hon. Mr. Elgie: Another Mulroney?

Mr. Philip: Can the minister comment on specific cases which have come to light recently? There was, for example, the person who purchased a home with no stairs and could not get to his second floor. This was reported on the Canadian Broadcasting Corp. the other day.

The home warranty program of the Housing and Urban Development Association of Canada mysteriously concluded that stairs were not an essential component of a house. I do not know. To me, going to bed is an essential component of living in a home. If I cannot get to the bedroom without using a rope, that may slow down the process of going to bed.

Interjections.

Mr. Philip: You have a dirty mind. There are times when one wants to save energy. Being able to walk upstairs is a reasonable way of saving energy, rather than going up a rope.

Will you admit that kind of thing is happening? Will you admit there should be a list by HUDAC of essential items in a home and stairs is one of

them?

Mr. Chairman: Mr. Simpson, would you like to comment?

Hon. Mr. Elgie: I do not know the specific case.

Mr. Elston: He lives in a single-floor house.

Mr. Simpson: What can I tell you? Mr. Locke and I are both anxious to sit down with that reporter. I listened to the broadcast and we played it last night. Mr. Locke listened to a

replay of the broadcast early this morning and telephoned me. Someone said this report had been on yesterday. Is this the report you were referring to? There are four items in the report.

Mr. Philip: Yes. I intend to go through each of them.

Mr. Simpson: I hope so. I mentioned them to Mr. Locke last night and he said, "I do not know. If you have a 1,000-foot climb upstairs, it makes sense to have a staircase." The code calls for a staircase. I think the reporter will have to give us the circumstances.

Mr. Locke finds it inconceivable his organization would not insist the builder put in a staircase. It might be possible that somebody bought an unfinished home because he got a deal of some kind. A lot of things could explain the situation, but assuming it is a standard real estate deal, Mr. Locke will see they get a staircase.

Mr. Philip: The second interesting case was the garage with a crushed-stone rather than concrete floor. The HUDAC home warranty program concluded that crushed stone was an acceptable way of finishing the floor of a garage.

This is not the first time HUDAC has come out with that kind of thing. We had the case in Markham a few years ago where none of the garages were finished. Since the builder had not gone bankrupt, HUDAC concluded there was no obligation. People had moved in during winter and accepted that the work would eventually be finished, but it never was finished. The conclusion of HUDAC was it was neither improper nor defective work, but it was unfinished work and, therefore, they could not cover it. Do you want to comment on that case?

Mr. Simpson: When you refer to Markham, we may be talking about the same homes. I think I know the situation. I think it was Vaughan township, which is close.

Mr. Philip: Yes, it was Vaughan township.

Mr. Simpson: The legal obligation of the home warranty program is to build according to the Ontario Building Code. The Ontario Building Code could allow crushed stone in a garage. In the case we are talking about, which I know very well, the people received the concrete floors in the garage.

Quite a process goes on, involving HUDAC, the receiver and the lending institutions, if something like that happens, where the lenders have not advanced all their moneys. I cannot tell you all the ins and outs, but the bottom line was they got the concrete on the garage floor.

Mr. Philip: The bottom line was also that they had to call in the CBC, me, and I do not know how many others in all before any kind of action was taken. I found that interesting.

Mr. Simpson: The first meeting attended on that one was organized by Mr. Hodgson. I recall a day when Mr. Hodgson phoned me and said, "I want a HUDAC person up here right away." I called Mr. Locke, and I think our Mr. Lewis, our board member and one of the members of the staff of the warranty corporation went to that first meeting.

A lot of people were involved in that from time to time. It was a big builder-200 homes. There was a receiver in place. HUDAC was invited. The warranty corporation expended over \$250,000 in there on various aspects of completion and things like that.

Mr. Philip: I wonder if you can spell out exactly what the difference is in the obligation of the home warranty program—under the act, it clearly states in cases of bankruptcy the person is covered—as distinct from a receiver or a builder who is in trouble. Let us start off with a builder who is in receivership.

Mr. Chairman: Before you answer the question, and we will allow the answer to this question, I think it will take us to about 11:30 a.m. Then I would like to move on to Mr. Swart and Mr. Elston.

Mr. Simpson: I could not answer it in two or three minutes, but I will give you the short version.

In the case of a receivership, the corporation works with the receiver. There are homes that are not started, there are homes that are partly finished and there are homes that are pretty well finished. The receiver, the program, the customers and the lending institution will work out the best kind of scheme.

If a receiver, on a going-concern basis, thinks he can get the subtrades to do their part and keep everything going, he will deal with the customers and say, "Do you want to hang in? If they are not started, we think we can complete your homes the way we said we were going to do it. Do you want to stay?" If they do not, they can go and take their money.

For the ones that are partly completed, they will do the same kind of thing. They will work with the lending institution, which in all probability has not advanced very much. They will advance their money only in proportion to the way the job is progressing.

Mr. Philip: What do you mean by take their money?

Mr. Simpson: The customers can walk away and get their deposit. They can walk away from the deal and go somewhere else. HUDAC, the program, the receiver and the lender will, invariably, try to keep them happy and keep them in. They want to see the situation salvaged if they can, but no consumer is held to ransom.

Mr. Philip: To make it absolutely clear then, if the deal has closed and the person has moved into the house, if the builder goes into receivership, are you saying the deal can be nullified?

Mr. Simpson: No. I am talking about ones that are in the process. They are not started yet, or they are partly completed or on their way to completion. If the deal is closed and the builder is in receivership, the receiver may still be in possession of unadvanced funds from the mortgage lender which the receiver can then use to finish the project. The garages were paved from moneys that had not yet been advanced by the lending institution. It is a living process.

Mr. Philip: What happens if there is not enough money in the pot?

Mr. Chairman: Mr. Philip, I am sorry-

Mr. Philip: Just the one last question.

Mr. Chairman: You can talk to Mr. Simpson concerning the last question in the back of the room. I am sorry, we have only 10 minutes. Mr. Swart had a few items.

11:30 a.m.

Mr. Swart: I will be very brief. I want to bring to your attention the case of Mr. Bob Bohan, who lives at 12 Manley Crescent in Thorold. He bought a house in 1983. He has had a number of problems and has had a HUDAC representative in. The main problem is the brick on his house. I went up to see this property myself, and there are chips in the bricks; they are brown and have, I guess it is, dye on the outside.

To make a long story short, the conflict is between the builder and the Brampton brick plant. In March 1984, the inspector from HUDAC, Mr. J. Nielson, was there and admitted there are some problems.

"After lengthy discussions, he agreed the brick manufacturer should be contacted to obtain its opinion and recommendations as to how to clean the brick and maybe touch up the chipped area. At this time, the warranty program will reserve its opinion until after the brick manufacturer has made its report."

The brick manufacturer came down to see the brick and, in effect, admitted there was not only chipping but also fading or the dye had changed colour.

He made a very clear statement, and I have a copy of it here: "Each brick has been inspected and graded to our standards for this particular type of brick. Therefore, no complaints about chipping, size or colour will be considered after the bricks are laid in the fall. If you have any questions regarding the quality of these bricks, contact the selling company or agency immediately." In other words, he is not taking any part of this.

The contractor came up and said: "No, it is the brick. I am not doing anything about it. You are the owner."

In this case, no order has been issued by HUDAC. I am going to leave that with you and ask if you will follow it up. It is typical of the problems and what appears to be inaction on the part of HUDAC inspectors. In fact, this person made the comment to me, and I think with some justification, that it appeared the representative seemed to be on the the side of the builder. When the inspector came down, he made excuses for the builder rather than trying to resolve the problem.

There are other matters that are also in dispute, but this is the major one. Some of the other matters have been resolved, and there is one rather serious problem which may be resolved regarding green wood and major cracks. The cracks are all open and change shape a bit more as they come back again. He may get that touched up again.

However, I would like you to pursue this particular issue. Incidentally, the builders are Mountainview Homes.

Mr. Simpson: Are they still in business? Are they still a viable company?

Mr. Swart: Yes, they are.

Mr. Elston: Mr. Chairman, I still have one question, but my colleague the member for St. Catharines (Mr. Bradley) has an item he wants to raise. I have already spoken at fair length.

Mr. Chairman: We have allowed you five minutes. Mr. Bradley, you are one of the critics, so carry on.

Mr. Bradley: Thank you, Mr. Chairman. The item I want to ask the minister about, if we have not already covered it, is the matter of phoney invoices. That was more of a problem, the members will recall, perhaps two or three years ago. Chambers of commerce across the province were complaining because businesses were getting invoices for some kind of directory. You had to read very fine print—you had to get a

magnifying glass at one time-to figure out whether or not you owed it.

I know one can say that everyone is supposed to read everything very carefully, but what was happening was that some businesses were paying the bill, whatever it happened to be, for what was apparently a listing in some kind of directory.

Has the ministry had any complaints on that lately? I know the minister took some action to overcome that. I was wondering about the effectiveness of that action, because I have heard fewer complaints, but I am wondering whether you have had further complaints at all on that issue and, if you have, what do you intend to do further to overcome it?

Mr. Simpson: Your assessment of the situation is bang on. We have not heard much lately about this kind of thing, but it is only fair to say that one will never totally drive away this kind of operation. They can operate from Buffalo or other border points or out of the province; there is always some imaginative person who will try this kind of scheme.

That particular company, as well as being pursued by ourselves, was pursued, charged and convicted by the federal authorities. I think the case concluded this year.

On our part, what we do is try to remind all the trade associations we deal with. We yack at them: "Put your annual or semi-annual notice in your newsletter reminding your membership to be on the lookout for these kinds of things." We do this with real estate agents, car dealerseverybody who typically would receive them.

We will never stamp them out totally, but as they surface, somebody will wham them and put out a warning. That is the way we will deal with it.

Mr. Bradley: As an individual member, I have not received as many complaints as I did in the past. I know you did take some action to force some requirements on these people to make them be more up front with their billing process. That is very helpful, and I am glad to hear that is the case. I agree that it is hard to overcome completely, and people have to be aware of this practice to a certain extent, but I just wondered if any more complaints had come up.

The other question I have is related to people who buy things and then do not want them. I received a complaint from an individual who had put down \$500 or something towards purchasing a car in Toronto. Eventually she got the money back, but there was quite a battle over whether she was get the money. I do not have the specific details in front of me.

She was suggesting that, as there is with people who come door to door, there should be some waiting period after which the person who sold the vehicle would be able to retain the money. She thought there should be a cooling-off period during which one could reassess such a purchase.

Hon. Mr. Elgie: Who has the car during the cooling-off period? Do you leave it in the lot or do you take it home?

Mr. Bradley: I honestly do not know. Is there any thought of a cooling-off period? Does such a cooling-off period exist, or is it strictly up to the seller to be nice enough to give back the down payment?

Mr. MacQuarrie: Would that apply to all merchandise in every department store?

Mr. Bradley: I am just talking about a major purchase, such as a car. This person happened to ask me about that because she had changed her mind for a very valid reason, in her viewpoint, within a short time of putting the money down. Eventually the dealer did give it back.

Hon. Mr. Elgie: I find it very difficult to have a cooling-off period in that kind of situation where the vehicle goes into the possession of the purchaser, who then takes it home and may use it for a number of days.

Mr. Bradley: What if there is no possession taken but the payment is made?

Hon. Mr. Elgie: It is still a contract.

Mr. Chairman: It brings out a point: When is a sale a sale? That is what you are asking.

Mr. Simpson: Could I deal with it from the perspective of looking back over the years? As the minister has indicated, cooling-off periods are normally associated with situations where people are at a disadvantage, such as when they do not have a chance to savour the situation, when someone intrudes on their privacy to subject them to some pitching and when they do not have a hope of understanding what they are getting into.

The truth of the matter is that there is not a car dealer I know who is out there with a grappling hook pulling people off the street to make them buy. People do a lot of shopping. Someone having taken a few hours of a salesman's or a company's time, driving an automobile and so on and then signing a deal—the contract, which we prescribe, is a standard one; it is simple, and there is no mystery about it—I have difficulty with the notion that this should just be unwound automatically.

We do unwind a lot, though. The registrar does it on a case-by-case basis if there is some suggestion that there was something wrong with an arrangement—for example, under the Business Practices Act, that a transaction was one-sided, that the person who bought the car was perhaps unable to look after his interest totally, that it was not a totally fair situation or that there was a hassle over whether there would be financing and who would get it.

We unwind them on a case-by-case basis. We find the dealers pretty co-operative in that. If the registrar says, "On balance, I think this one should be unwound because there is an element of doubt about the understandings," they are pretty good about unwinding it.

As a general rule, people want to walk away because they heard somebody said, "I could have sold it to you for \$200 less." I do not know whether they would have, but they find it easy to say. There is a lot of that.

Mr. Chairman: Thank you, Mr. Simpson, we have come to the conclusion of our estimates.

Vote 1602 agreed to.

Mr. Chairman: We were scheduled to do Management Board of Cabinet estimates this week, but unfortunately one of the critics is not ready. Since we do not have anything in front of us, we will not have any scheduled meetings tomorrow or Friday.

Mr. Philip: You are not indicating it is me, are you?

Mr. Chairman: I would not say a thing. I did not know you were the critic. I did know, but I did not want to indicate it.

Mr. Philip: I did not say we could not proceed on it. It does not matter to me.

Mr. Chairman: Are you ready? If you could be ready, we would appreciate it. If not, we can postpone it. We will do whatever you would like to do.

Mr. Philip: I would prefer to postpone, now that it is the last minute.

Mr. Chairman: All right. You prefer to postpone it. I had understood it was postponed anyway.

Mr. Philip: While the minister was talking about-

Mr. Chairman: Just before we get into your part, Mr. Philip, this completes consideration of the estimates of the Ministry of Consumer and Commercial Relations.

Thank you very much, Minister, deputy and gentlemen.

Mr. Elston: Mr. Chairman, could I mention one thing I have noticed in the estimates? It is a question I raised at the start of the estimates with respect to studies. How many studies are under way inside and outside the ministry? How many studies are going on to cabinet? How many studies are being reviewed by ministry people? How many studies are being done by consultants?

Throughout the estimates, portions of the ministry have indicated there are studies under

way. We had the Liquor Licence Board of Ontario and the Business Practices Act today, with amendments on HUDAC for consideration some time in the spring. There are at least three or four other major studies which will conclude in the spring. We have amendments to the Residential Tenancies Act being dealt with in the spring. Are you being realistic in the type of legislative agenda you expect to have next spring?

Mr. Chairman: Our time is up, Mr. Elston. The committee adjourned at 11:43 a.m.

CONTENTS

Wednesday, November 21, 1984

Liquor licence program:	
Liquor Licence Board of Ontario	J-499
Commercial standards program	J-510
Ministry administration program:	
Financial services	J-510
Commercial standards program:	
Business practices	J-514
Adjournment	

SPEAKERS IN THIS ISSUE

Bradley, J. J. (St. Catharines L)

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)

Elston, M. J. (Huron-Bruce L) Kolyn, A.; Chairman (Lakeshore PC)

MacQuarrie, R. W. (Carleton East PC)

Newman, B. (Windsor-Walkerville L)

Philip, E. T. (Etobicoke NDP)

Swart, M. L. (Welland-Thorold NDP)

From the Ministry of Consumer and Commercial Relations:

Blair, W. L., Chairman, Liquor Licence Board of Ontario

Crosbie, D. A., Deputy Minister

McIntyre, G., Assistant Deputy Minister, Financial Institutions Division

Robins, T., Director, Credit Unions and Co-operative Services Branch

Simpson, R., Executive Director, Business Practices Division

Thompson, M. A., Superintendent of Insurance

Wilbee, J., Superintendent, Deposit-Taking Institutions; Registrar, Loan and Trust Corporations

No. J-25



Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Management Board of Cabinet

Fourth Session, 32nd Parliament Wednesday, November 28, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 28, 1984

The committee met at 10:07 a.m. in committee room 151.

Mr. Chairman: The estimates of the Management Board of Cabinet were referred to our committee on November 14, 1984, by the Legislative Assembly. The time allotted for these is approximately five hours. Before we proceed with our regular business, Mr. Philip has an announcement to make.

DEATH OF MEMBER FOR RIVERDALE

Mr. Philip: Mr. Chairman, as you know, and as I know as a previous chairman of this committee, a very active participant in this committee during its work and a man who served the people of Ontario for a very long time, Mr. Jim Renwick, unfortunately succumbed to a heart attack last night and passed away.

I know more detailed statements will be made in the House by those who knew him well over the years, but as the committee on which he was most frequently active, it is fitting for us, since we are the first committee meeting after his death, to recognize what a contribution he made to the Legislature and to justice and the justice policy in this province.

I want to express to his family our deepest sympathy. We have lost a friend. We have lost someone who served the people of Ontario very well. He will be missed by this committee, by the Legislature and by the province of Ontario.

Mr. Mitchell: Mr. Chairman, as a member of this committee representing the government side, I know the one thing we could always count on the late member for was a very tangible contribution to this committee. There was no doubt we knew when Mr. Renwick was here. Not only did we know when he was in committee, but we certainly knew when he was in the House.

As the member for Etobicoke (Mr. Philip) has said, Mr. Renwick really loved this committee, because it was one where he put his legal background to the best use. I know as a member of this committee we sometimes suffered the slings and arrows, if one wants to call them that, of Mr. Renwick, but it was always done in style. Speaking for our side, I know we will miss him not only as a member of this committee, but also in the Legislature.

Mr. Elston: Mr. Chairman, I happen to be the newest arrival on this committee, but I certainly want to say on behalf of myself, first of all, that in a sense I recognize a personal loss. I felt Mr. Renwick was one of the people who provided some guidance for those of us who were new members.

I remember coming in here as a new member for the first time to the justice committee and finding myself being taken away by his oratory, not only here in committee, but also in the House. I understand his commitment to the justice he so definitely wanted to have instilled in Ontario and operating for all people in the province.

He has over the years provided many people with a number of memories, but for me it was the way in which he was so forthright not only in discussing issues in the public forum, but also in taking aside some of us new members and discussing with us as well the types of considerations he himself had gone through to arrive at some of his decisions on what he wanted to speak about in committees.

I am thankful to have had the opportunity of serving with him. As has been expressed by the other two members here this morning, the people of Ontario are better for having had James Renwick serve in the House here in Ontario. It is a sense of loss that we in this committee will suffer because it will be very difficult to replace a man with the experience and depth of understanding of our system that Jim Renwick did have.

He had a very diversified background of experience before he came to us in the Legislative Assembly, and that experience stood him in good stead when it came to analysing critically but evenhandedly some of the pieces of legislation he dealt with and strove most strenuously to have amended or passed here in this Legislative Assembly.

On my own behalf and on behalf of my colleagues in the Liberal caucus, I want to extend our sympathies to the family and also to recognize the valuable contribution of the member for Riverdale. I hope some of the foundations of justice and fairness that he stood for will long be a part of the traditions of Ontario.

Mr. Chairman: I would like to say a few words in regard to Mr. Renwick, certainly to his family. We do send our condolences. Jim's contribution to the Justice policy field in general and to this committee is well known by all of us, and we will certainly miss him.

It seems as if we had just recently done the Attorney General's estimates and we were all joking and being jovial about Mr. Breithaupt leaving and about how he had spent the nine previous years on the justice committee. Some of the farsighted legislation that has come through the justice committee must in some small part be Mr. Renwick's doing. Again, to his family I send my personal condolences. We will miss him.

We will now move on to the minister. Have you an opening statement in regard to the

estimates?

Hon. Mr. McCague: Mr. Chairman, it is too bad we are starting on this note today. I sat on committee with Jim Renwick when I first came for about three years, I guess, and I endorse

everything that everybody has said.

I came to Queen's Park from the county system, and the closest thing to the county system is the system we have in committees. There was always a fair amount of give and take, and Jim understood that. His counsel was valued by all. He was a little more partisan in the House than he was in committee, and that is understandable. But I want to join all the rest in just saying thanks for the time we had the privilege of spending with him here and to wish his family well.

ESTIMATES, MANAGEMENT BOARD OF CABINET

Hon. Mr. McCague: Mr. Chairman, I am pleased to present the 1984-85 estimates of the Management Board of Cabinet. In my remarks I will focus on significant achievements that have been realized while living within a responsible fiscal framework and on the steps we are taking to ensure that this government can continue to fulfil the needs of the people of this province at an acceptable cost.

I would like to acknowledge the dedication and skill of my two deputies and their fine staff, whose contribution to these achievements is a credit to this province. I have here with me Mrs. Ethel McLellan, who is chairman of the Civil Service Commission, and also Mr. Carman, who is Secretary of Management Board.

Although I do not have any of my colleagues on Management Board here, I want to express my appreciation of their dedication. These are not easy times, and they can proud of their record of achievement over the past months. What we have accomplished in this province is the result of careful, prudent and deliberate strategies to control the growth of government and government spending. Ten years ago we saw the need to cultivate a leaner government and today we are able to live with the discipline of fiscal restraint without compromising the quality of services in this province.

Let me take a moment to examine the result of 10 years of commitment to restraint. During the past decade, our expenditure growth has remained below the average annual revenue growth rate of 11.2 per cent and below the average annual growth in gross provincial product for the same period. Ontario's 1984-85 per capita expenditure of \$3,001 is the lowest among the provinces and federal government. To achieve this, we have set some tough targets for ourselves and we have met them.

Through our program of careful expenditure management, we have been able to free up resources to fund new government initiatives and priorities and to respond to the many economic and social pressures we are experiencing in this province. Since 1975 we have created the Ministry of Northern Affairs, the Board of Industrial Leadership and Development program, the seniors' secretariat and the women's directorate. We have undertaken job creation initiatives; we have introduced tax grants for seniors; we have entered into major forest management agreements; and we now provide air ambulance services to the north. These are only some of the programs we have introduced over the past decade.

I would now like to describe some of the means by which this admirable fiscal record was achieved. First and foremost, the Ontario public service has become leaner since 1975. We are doing more with less, serving our growing population with fewer public servants.

Mr. Elston: But more contract staff.

Hon. Mr. McCague: Contract staff are included.

Specifically, the number of public servants declined from 87,109 in March 1975 to 80,395 in March 1984. That is a drop of 7.7 per cent for a period during which the Ontario population increased by 7.9 per cent. This means that of all the provinces, Ontario has the lowest number of civil servants per 1,000 people. When the restraint program was first introduced nine years ago, there were 11 public servants for every 1,000 Ontario residents. Now there are only nine

public servants for every 1,000. Yet we continue to provide more and better services to the people of this province.

More important, I am proud to say our record of staff reduction has been achieved gradually with new jobs being found for the majority of the redundant staff. I think you might be interested in a few details about our staff reduction strategies.

In 1983-84, we introduced a voluntary retirement option. This policy was designed to encourage employees to take early retirement where they had already reached the age of 60 with at least 20 years of service, or had accumulated 90 points under the "age plus years of service" formula. The policy provided for eligible employees to receive an additional one month's pay for every year remaining to the age of 65, up to a maximum of six months' pay, if retirement took place by December 31, 1983. In addition, the policy required each ministry to forfeit one position and the funds related to that position for every employee who took early retirement.

10:20 a.m.

By the end of the 1984-85 fiscal year, this policy will have produced a reduction of more than 700 positions and a net saving of \$10 million in expenditures. The ongoing saving to this government is expected to exceed \$21 million per annum. The Civil Service Commission has made human resource planning one of its priorities for 1984-85 and as such is committed to providing corporate leadership and direction in the area of human resource management in the Ontario public service.

I am pleased to announce that a human resources division was established to give a clear focus and co-ordinated leadership to human resource management in the public service. We are now able to co-ordinate more successfully the overlapping human resource issues and opportunities which will help in the formulation and delivery of corporate human resource policies and programs.

The staff relations and compensation division was established to co-ordinate staff relations, pay and classification and benefits branches. These branches continue to provide services integral to the Civil Service Commission's role and responsibilities, all of which relate to the good management of human resources.

The Civil Service Commission continues to play a key role in redirecting employees who are displaced by program adjustments and constraint. The commission works closely with all ministries to ensure that the valuable experience

and training of these employees is retained wherever possible. The commission has centralized the management of the staffing process for those bargaining unit classes most affected by the restraint activity and has initiated a program of counselling surplus employees to assist them in preparation for job interviews. The commission also provides assistance to the employees in obtaining temporary assignments while awaiting permanent positions.

The whole area of executive development will be a high priority of this government in order to ensure that we continue to maintain the high quality of leadership in the public service for which Ontario is well known. Through a combination of secondment, career rotations, acting appointments and competitions, we are ensuring that executives have the broad-based knowledge of government and the depth of experience to meet the management challenge of the second half of the 1980s.

In the area of human resource planning, a most significant government-wide project currently under way is the corporate human resources information system or CHRIS, as it is known. When it is complete, CHRIS will provide the Ontario public service with a greatly enhanced source of information about the makeup of the work force. The system will help identify those occupational groups where staffing action must be taken to meet anticipated needs.

The commission has successfully sponsored workshops and symposiums for ministries to demonstrate and share knowledge of the best practices in such areas as staffing, performance appraisal and in-house human resource planning systems. The commission will continue to encourage this co-operative sharing of knowledge and systems information among ministries.

I am proud of the leadership role we have taken to ensure that the hiring practices of this government are responsive to the demographic and social fabric of this province. We continue to respond with sensitivity to the legitimate needs of women, youth, handicapped and ethnic minorities. We do this within the framework of a hiring philosophy based on the principle of merit. We are working closely with the Ontario women's directorate in order that our staffing, development and promotion policies facilitate the advance of qualified women throughout the Ontario public service.

In a recent initiative focusing on the placement of disabled persons, we provided short-term assignments for evaluation and training purposes in order to promote the hiring of disadvantaged and handicapped persons on a permanent or contract basis. In 1983-84, we were successful in

obtaining a total of 205 placements.

As a part of our commitment to involving more Ontarians in the productive life of the province, this government has taken a major step in response to the significant trend towards part-time work. A growing number of people now choose to work part time. An estimated 3,400 employees in the Ontario public service perform ongoing and continuous part-time work. With the proclamation of Bill 54, these employees will have the opportunity to join the civil service with access to pensions. Similar benefits will be available to some 4,500 seasonal employees.

I would like now to focus more closely on what I see as one of our major challenges in this organization today—harnessing information technology. It is a key issue for managers in this government. It is fundamental to our future capability to deliver successfully quality programs and services to the public while dealing with the realities of limited financial resources.

In last year's estimates speech, I spent considerable time on the subject of information technology and its potential impact on government. We have moved from an industrial society to an information society with a rapidity unparalleled in history. Computer technology has moved from a backroom specialty involving a relatively few technocrats to an all-pervasive phenomenon involving the majority of office workers, managers, professionals, private citizens and even school children. The complexity of the technology and its products is increasing geometrically, and the only constant and predictable issue is that rapid and increasing change will continue for the foreseeable future.

In Ontario we also see the technological phenomenon as an important management opportunity. We are working to develop a strategy for the use of information technology that will enhance our ability to serve the public, enrich the jobs of our employees and improve productivity.

Last year, I announced the formation of a team of senior government managers with a mandate to examine the strategic technological alternatives available to us in the next five to 10 years. This group is called the information technology strategy steering committee, or ITSSC for short. That is not too short.

This year I am pleased to announce that I have restructured the management technology branch to create a new organization in the Management Board secretariat to support this process. This is called the information technology division. Its

primary mandate will be to encourage the effective use of information technology throughout government.

We have given the corporate strategy group in the new division the role of facilitator for the strategy planning processes in government, leaving line managers with the responsibility for the individual plans. The corporate strategy group provides research facilities, staff support, expert advice and documentation services for the current technology strategy project, but the planning decisions and strategies are the output of the various management teams working on the individual task forces. Their work, in turn, is reviewed by the information technology strategy steering committee itself.

In view of the far-reaching implications of a technology strategy for the government, I have chosen to constitute an advisory body of recognized authorities in the information technology field, and I would like to take this opportunity to announce the creation of the Information Technology Advisory Council. I have asked a number of leaders in the business community to sit on this council to assist me in reviewing the suitability of the new strategies. The council will meet regularly to consider the proposals as they become available from various strategy task forces.

The council consists of Ms. Mary Baetz, a specialist in the field which deals with the impact of technology on people and author of a recently published book on this topic—

Mr. Philip: What is the name of the book? 10:30 a.m.

Hon. Mr. McCague: It is like the Provincial Auditor's report; it is almost published.

Have you got the name, Robert? Do you know?

Mr. Philip: Mr. McGeown might have it.

Hon. Mr. McCague: The name of the book?

Mr. Philip: I am sorry, I did not mean to interrupt. You can get it back to us later.

Mr. Chairman: We will be able to transmit the information later. Please continue.

Mr. Elston: It was a good book. I just cannot remember the title.

Mr. Chairman: That is all right. We will get you the name of the book in a few moments.

Hon. Mr. McCague: I do not think anyone has a copy at this moment.

Mr. Chairman: Carry on.

Hon. Mr. McCague: Dr. Wes Graham, dean of computing and communications at the Univer-

sity of Waterloo; Mr. Fred Pomeroy, president, Communications, Electronic, Electrical, Technical and Salaried Workers of Canada, who will bring a perspective from organized labour to the council: Mr. Walter Light, chairman of Northern Telecom, and Mr. Phil Lind, senior vicepresident, program and planning, Rogers Cablesystems, Inc., who will provide experience from the Canadian high-technology manufacturing and services sector. Mr. Jim Kranias, managing partner, central and west region, DMR and Associates, will round out the group with his substantial experience in the information systems consulting community and as a member of CADAPSO, the Canadian Association of Data Processing Service Organizations, and of IMCO, the Institute of Management Consultants of Ontario.

I think you will agree we are indeed fortunate to have the willing and enthusiastic participation of such a highly qualified and concerned group of individuals. I believe they will add a vital dimension to our strategic planning endeavour that will pay off handsomely in the years ahead.

Time does not permit me to report in detail on the individual areas of strategic importance that have been identified, but I would be pleased to ask staff to explain the nature of the eight strategy areas and to give you an overall sense of the emerging issues, should you wish to pursue these matters in our subsequent discussions.

Up to this point I have dealt with many of our initiatives and achievements in pursuit of better government. I spoke of our admirable record of financial responsibility, our continued service improvement in an environment of fiscal restraint and our efforts in support of good management practices as the keys to good government.

I am proud of the record I have put before you. It reflects our commitment to providing high-quality services to the people of Ontario and our innovation and responsiveness to change. This province will maintain its record of excellence in managing the affairs of government because we are forward looking.

I would like to take the last minutes of this presentation to introduce to you a major initiative we are involved in, an initiative designed to prepare this government for the challenges of the second half of the 1980s and beyond. I am speaking of our review of the management and accountability framework of the government, which is being undertaken jointly by Price Waterhouse Associates and the Canada Consulting Group Inc. This review, which began last

March, covers three broad areas of government activity.

First, it focuses on the accountability framework of the government. The goal is to clarify the roles and responsibilities of individual ministries and central agencies such as Management Board of Cabinet and Treasury in the accountability area.

Second, the project is examining the government's administrative policies and practices. We have asked and expect answers to such questions as: Do the current procedures ensure a continuation of the high standards of integrity and honesty we expect in the conduct of public business? Do they encourage economy and efficiency? Do current rules promote productivity gains and more effective programs and services for the public? Are new approaches needed to ensure compliance with government policies? Are some things that central agencies do or demand hindering or helping managers achieve their objectives?

Third, the consultants are investigating the human dimension, what might be called the working climate of the Ontario government. They are looking at the motivation and attitudes of senior public servants to determine whether the climate encourages the highest standards of commitment and dedication, whether it supports innovation and creativity and a value-for-money approach.

The project is also designed to tell us how effectively we are identifying and developing our future senior managers. Do our top executives give enough attention to staff selection? Are the rewards and incentives sufficient to support excellence in management?

A steering committee composed of seven members—three deputy ministers and four business leaders from the private sector—has been working closely with the consultants to review progress on issues and proposals as they arise. The consultants have just completed a review of their preliminary findings and recommendations with the deputy ministers throughout the government.

Based on the comments and criticisms provided by the deputy ministers, the consultants are completing their proposals for a final meeting of the steering committee in December. I am confident the report, which we expect will be submitted on or before December 31, will provide us with proposals that will ensure a continuation of our commitment to improve and strengthen our management processes and approaches in Ontario.

Following the receipt of the final report in late December, I envisage the establishment of an implementation team composed of senior government managers to oversee the implementation of the recommendations. Throughout this process our philosophy remains one which holds that the effectiveness of the organization hinges on both people and process. To challenge the talents of each individual in a purposeful manner, our management process focuses on results, accountability and decentralized decision-making.

I believe the Ontario government is working from a solid foundation, but we are taking a systematic look at our management structures. We want to be confident in the knowledge that our management concepts and approaches are well founded and sound. We want to make sure that our management processes are the best possible, not as an end in itself, but in order to ensure that our service to the public is of the highest quality.

I would now like to take this opportunity to congratulate Ontario public servants in their role as concerned, community-minded citizens as demonstrated by their generous support of the United Way and federated health fundraising

campaigns.

During 1983-84, public service employees throughout Ontario contributed \$1,369,000 to the United Way, as compared with \$1,197,000 raised the previous year. The federated health campaign, through which funds are raised for the Canadian Cancer Society, the Heart and Stroke Foundation, the Ontario Lung Association, the Kidney Foundation, Diabetes Canada, the Canadian Paraplegic Association and the Canadian Hemophilia Society raised \$328,500 in 1983-84, a 13 per cent increase over 1982-83.

This concludes my remarks.

Mr. Chairman: Thank you. We will now call upon Mr. Elston, the critic of the official opposition.

Mr. Philip: Mr. Chairman, before you do that, I wonder if Mr. Elston will allow me to simply say that I have to go out for about five minutes at about 10 minutes to 11, so my apologies to the committee. If, by any chance, I am in the middle of my remarks, I hope that I may be excused for about five minutes. I have a group that I just have to meet with.

Mr. Chairman: Will you be long, Mr. Elston?

Mr. Elston: No, I do not expect so. I will not have a very long statement.

Mr. Chairman, this is my first opportunity to be involved with the estimates of Management Board of Cabinet. In that light, I am not going to be too long on opening comments, although I do want to start off by indicating it has been rather an eventful past few months for the Chairman of Management Board when it comes to the considerations that have been made during the Legislature's time with respect to dealing with various contracts. I know my colleague the member for Grey-Bruce (Mr. Sargent) will have some comments and questions with respect to contracts, certainly as it deals with the enforcement of the Manual of Administration.

10:40 a.m.

I must confess that as a new member I really was not sure what the Management Board actually did. I understand there is sometimes some confusion as to exactly what the programs may be all about when it comes to dealing specifically with individual questions surrounding what can be done and what cannot be done by individual people.

One of the items that concerns me with respect to the controversies in the House at various times is the fact that there seems to be no clear indication of what the chairman himself or his colleagues on Management Board can or cannot do to make sure that the manual directives and the board's policies are enforced. I presume that he must have to get some kind of support from the senior minister in the province to make sure that any transgressors are dealt with expeditiously so the breaches will not occur again.

I am also concerned somewhat by the statements made earlier about the reduction in the number of government employees. It is the general impression in Ontario, I think, that there has been some reduction in the numbers of people, but, as I interjected before, there is a growing concern that these public servants are being replaced with people on contract and that the three-month breaks for contract staff are being used to keep people in the system and available for various pieces of work.

As a member I know several people working with various ministries. They sometimes have genuine concerns that when some programs are transferred or taken out of offices the people involved will be brought back on as contract staff, have a maximum nine-month sojourn with the particular ministry, then go on three months of unemployment insurance and come back on another nine-month contract with whatever ministry they are involved with.

In this way it would appear to me the ministry is able to keep very good and competent people, without question, in the public service of Ontario. But using the proceeds of the unemployment insurance fund set up by the government of Canada to help us maintain these employees during that three-month interlude before resuming their positions with the government of Ontario in some ways concerns me a little. I can see how one would argue that Ontario should have the benefits of the unemployment insurance fund, but I think this policy also ought to be part of the review of this particular chairman, as to whether this is a designed policy program or whether it is just taking place willy-nilly.

I also see, while browsing through the briefing book, that we have for the first time—at least it appears to be the first time, and you can correct me; I guess this would be the second time—a contingency fund of some \$132 million for salaries and things. We had the same fund set up last year, but we do not have the actuals for last year. I guess there were no expenditures for the previous two years, so there are no actuals shown in our briefing book on those. Perhaps you can tell us what those actuals are.

Mr. Carman: We will explain that.

Mr. Elston: You will be able to explain it? It is an indication that we are not able to find out exactly where those contingency expenditures were made. I understand that they will be allocated to various ministries when they need them.

It would seem to me that we ought to have some indication of what policy has been set up by Management Board to dispense those funds, particularly when the whole budgetary process is designed to be dealt with here in committee or in the House at the time concurrences are granted.

I was interested to hear the minister speak about the affirmative action committee development. He made a statement about what he called the legitimate needs of women and then mentioned as well the legitimate needs of youth. I wonder if the minister would tell us exactly what he views his role to be, as Chairman of Management Board and as the person responsible for policy in the areas of employment, in meeting the legitimate needs of women; then he might also go on and indicate what he would define as "the legitimate needs of youth." It seems to be a far-reaching phrase, one that can be passed off very quickly, but unless we know what the minister means by those immediate needs and what he views them as meaning and what his colleagues in Management Board view them as meaning, it does not give us much of a background to determine what is being done from that standpoint. You may be very proud of what is happening, but perhaps we should have a definitive answer with respect to that part of your program requirement.

I would like to go very quickly to the question of the Price Waterhouse study. I understand that study was originally supposed to be available in the summer of this year, then it was postponed to the fall—at the time you made a speech at Wasaga Beach, sometimes captioned lately as the Wasaga Beach confession—but now we are told it will be postponed again until December, and you have expressed some hope that it will be released by December 31.

I wonder if you might advise us when that will be available for the people of Ontario to see and provide us with some guidelines on how you are going to manage in the interim, as it were, while you await the adoption and introduction of these various programs.

It seems to me this study has been going on for some time. It has been a particularly critical time for the government, when there have been a number of people seeking advice on how they may participate in a leadership activity or on what their role or future is with respect to that type of activity in the province. If we had the details on how you are to be proceeding on that study, it would be of some guidance to people in the future. I think it is rather too late for those individuals who wanted to become involved in various leadership campaigns this time.

At this stage I would also like to mention a question that was raised by my colleague the member for Renfrew North (Mr. Conway). It dealt in particular with an opinion from a prominent Toronto law firm which was delivered to the Deputy Attorney General with respect to whether Mr. Louis Parsons could partake of activity in the leadership campaign.

It is of some concern to me and the members of the caucus that this letter was made available to various people but was not made available to the Chairman of Management Board. It is an indication that, somehow along the line, information may not be getting through to the honourable minister, and that surely has to be straightened out. Actually, he should be the originator of a lot of this material, rather than the last to receive it. I should not say "the last," since I do not know who else did not see it before it was raised by my colleague, but I do feel that since this minister is in charge of this sort of activity, he ought to be the first to know.

I am also interested in discussing with the minister the question of severances; what sort of policy is made with respect to those people whose employment is terminated, particularly management people, where we find an increasing trend these days, with litigation surrounding wrongful dismissal and items of that nature. I know there are individuals, from time to time, who leave the employ of the ministries for one reason or another and we do hear about these large settlement awards, not only at the provincial level but also at the federal level.

I wonder if you could provide us with a description of the policy of Management Board with respect to those types of questions so we can study those.

I am looking forward to continuing with a series of other questions as we proceed through the book, and I know my colleague the member for Grey-Bruce (Mr. Sargent) has some very searching questions indeed with respect to some aspects of these deliberations. I will stop now and allow my friend the member for Etobicoke (Mr. Philip) to express some concerns or support, whichever.

10:50 a.m.

Mr. Chairman: Thank you, Mr. Elston. I do not know; on the redistribution, is it Etobicoke or Etobicoke North?

Mr. Philip: It is Etobicoke North, but I had asked for Rexdale, because I keep getting calls from the riding of the member for Lakeshore (Mr. Kolyn). Undoubtedly, they are people who are either completely politically ignorant not to know who their MPP is, or they have just moved into his riding, but I am halfway through listening to their cases when I find out that they should really go to see the member for Lakeshore.

Mr. Chairman: Just send them to Etobicoke South and we will look after them.

Mr. MacQuarrie: Mr. Kolyn is popular and his name is first in the phone book.

Mr. Philip: Except it is I who get called.

Mr. Elston: That is when they cannot get through to Mr. Kolyn.

Mr. Philip: I cannot get that through—by the way, since the Minister of Government Services (Mr. Ashe) is completely unsuccessful in doing this, maybe the minister could use his influence on the switchboard to have them understand that when somebody calls up and says he wants to speak to his MPP and is asked where he lives and says Etobicoke, there are four ridings in Etobicoke and they should specify where in Etobicoke, because we get three or four phone calls a day.

Mr. Chairman: You can have all the 2 a.m. calls.

Mr. Philip: I do not know; I have tried everything else. I am thinking of making a novena. If you do not do it, I will have to go higher and light a candle in the church or do something. I will speak to God.

If I suddenly cut short my remarks, it does not mean I do not want to continue them; it is just that if somebody in a red uniform appears at the door, I have to go out to speak to some 30 constituents who are taking a tour of this building. Since they tend to vote and the members of the committee do not, I am sure the chairman will understand my priorities.

I would like to start off by doing a follow-up on a few of the things that were stated in the minister's comments. Regarding page 2, the second paragraph, I would like to go into that in greater detail later in the estimates to get an elaboration of the matter of the reduction of the number of civil servants. Like Mr. Elston, I would like to explore the contracting out and the number of contract employees, how they are being used, etc.

In the fourth paragraph on that page the minister talks about how proud he is that "our record of staff reduction has been achieved gradually, with new jobs being found for the majority of the redundant staff." It would be interesting to find out the details of how many have not been placed, how many are still unemployed, what is the average length of unemployment and, basically, how this compares with some of the programs in the private sector.

The minister goes on to talk about his policy of encouraging early retirement for those who wish to do so on a voluntary basis. Of course, this is something we pioneered when we were the government of British Columbia, not only in the public sector but also in the private sector. We see it as a way not only of giving voluntary retirement to those who wish it but also of creating jobs at the other end of the scale. It has proven most successful.

One of the interesting things when we look at retirement is that, unfortunately, Ontario, and indeed Canada, are fairly high in age of retirement. If we look at Italy, for example, the retirement age is 60 for men and 55 for women. Similar ages and reduction in the work life have been implemented in other westernized industrial countries of Europe. I think that is something we have to look at.

We have also suggested, and I would like the minister's comments on this, that if we are allocating priorities with respect to optional retirement, perhaps an emphasis should be placed on looking at the positions that require physical exertion. In other words, for those jobs requiring heavy physical exertion—outside construction work for the Ministry of Transportation and Communications and things like that—maybe 55 is not an unreasonable retirement age for those people. That may be a priority if you are implementing a gradual reduction of the work force.

I have just received a note that I have to meet with the group. Perhaps some of the other members can go on.

Mr. Chairman: Fine. What we will do is revert to Mr. Elston. Possibly the minister can answer some of his concerns until you come back and then we will give you the floor again.

Mr. Philip: Fine. I would appreciate that.

Mr. Chairman: Okay.

Hon. Mr. McCague: Mr. Chairman, the first thing mentioned was the Manual of Administration. I guess this has been said many times. We prepare a Manual of Administration for the government which is updated on a regular basis. It is a guideline for the deputy ministers, who are responsible for their ministries and who report to their minister. On many occasions in the House, I have said it is a question of—

Mr. Sargent: May I interject here? When is it updated?

Hon. Mr. McCague: It is done on a monthly basis. Policies change from time to time. I am sure you have a copy.

Mr. Elston: Is it from day to day?

Hon. Mr. McCague: No, not from day to day. As a full board, we meet only once a week. As I said before, the policies are there. They are to be followed by the deputy minister, who reports to his minister on a regular basis. In the House, it is the minister who answers any question pertaining to that.

You also have to remember we have a Provincial Auditor who looks at compliance with the Manual of Administration from time to time. We also have a standing committee on public accounts in which I understand you have an increased interest at this particular time.

Many questions are asked about contract staff. The contract staff are counted in the head count. The figures I gave you include contract staff. That is not to deny there is a time of year when the staff is higher than it is on March 31. However,

that runs constant too; you can take any given month in the year. There are times in the summer when the staff goes up 10,000. This is for the upkeep of parks, highways and all those things. We have what I consider to be an honest system that reflects the actual head count at that time of the year.

The matter of contracting out has been mentioned from time to time. Over the past year, we did a survey to see if there was a much greater use of consultants. We found that the number of consultants used by the government equated to 224 full-time positions. We are using that figure against the reduction of some 7,000 about which we talk.

Mr. Elston: Do you have a reading on the cost of those equated 224 positions? Is that substantially lower than the 7,000? I presume these consultants would also have staff attached to them to do their consultant work.

11 a.m.

Mr. Chairman: Mr. Carman, do you have anything to add to that?

Mr. Carman: Mr. Chairman, how we actually computed that number was to look at what is called the common object code, where ministries charge their expenditures to various categories of technical consultants and professionals such as lawyers and doctors.

We did a comparison over a five-year period and looked at the actual expenditures. We found from our records and from ministry records what the per diems were at the time of the expenditure. We divided those per diems into the amount. From that, we calculated a head count that would have been the annualized use of consultants in each of those five years.

We discovered from the contracting out figures—it is a direct operating expenditure—that although the numbers do vary from year to year, over the five-year period there was a difference in the total annual count of only about 200 people.

Mr. Elston: Does that figure, the 224 people who are the expenditures about which you have just spoken, include moneys spent by ministries to support studies in near-ministry positions? For instance, if the district health council in Grey-Bruce hired a consultant sponsored by the Ministry of Health, does your figure include those consultant fees, or are they only related directly to ministry expenditures?

Mr. Carman: Neither the head count to which the minister referred earlier nor the figures for consultants include the transfer payment area. Any transfer payments to school boards or municipalities—what they are doing in terms of hiring staff or consultants—are not included in these figures. However, in the case of all our direct operating expenditures, any direct operating expenditure is covered in the numbers to which I have just referred.

Mr. Elston: The point I am getting at is that I noticed a certain decentralization of some of these study programs and a dropping by various ministries of some of the requirements for background study. In-depth consulting work is being done at a level once removed from the ministry itself. Perhaps the farming out of some of this consulting work by various ministries is an indication that there is a way of getting around the head count, although I am sure that is not part of the overall design.

Hon. Mr. McCague: Have you any examples other than a health council?

Mr. Elston: Sure. For instance, I know of a study being funded by the Ministry of Agriculture and Food at the county level, where money is being expended to do studies for a particular area of the province.

Hon. Mr. McCague: In the case of an agricultural office-

Mr. Elston: It is not in the office.

Hon. Mr. McCague: Is it not in the office?

Mr. Elston: No. A concern has been raised with me and I find it a big concern. Is there some pressure to retain a former employee of the Ministry of Agriculture and Food to do some of the work on that study? That is what I am coming to, at a later date perhaps, because I am straying further from my original comments. I would like to come back to that issue later.

It may be something you would like to consider when you review the expenditures. You might try to find out whether the various ministries are finding a way of getting around this or are spending money on more consultants' reports that the ministry will obviously have the benefit of.

Hon. Mr. McCague: I am not aware of what you are referring to. I am sure if that is happening, it would not be in the count we gave you.

Mr. Elston: No.

Hon. Mr. McCague: We do not know the extent of it. I suggest the question probably should be more properly addressed to the minister responsible, rather than to us.

Mr. Chairman: Excuse me. If we have finished on that topic, I would like to revert to Mr. Philip so he can finish his remarks.

Mr. Elston: That is fine.

Mr. Philip: When I was interrupted by the group of citizenship classes from my riding, we were talking about how many people are taking advantage of early retirement. If you are phasing in an early retirement program, I had expressed some concern as to which positions would be best suited to phasing it in. This assumes you are not prepared to lower the age automatically and have an optional retirement at age 55 or age 60.

I would like a little more elaboration on the second paragraph on page 3. It uses a great deal of jargon and I am not quite certain what it is saying. As part of your answer to that, I would also like to know how much is being spent on training and counselling in the public service and whether it is increasing or decreasing.

In my whole experience of being a member of the Legislature, it seems to me I recall only Patrick Reid and myself—there may be others—who have participated in any of these programs. If you are going to have training programs, perhaps they should be open to members of the Legislature as well. The professionalism of the trainers is such that I do not think it is something that would cause a conflict between the government and the ministers.

It has been one of my hobby horses, perhaps because of my background as a management trainer and consultant, but the role of a member of the provincial parliament is one of the few paid government positions where there is no professional training program of any kind. Sure, some of us can go at our own expense to conferences and so forth. However, when the public service is putting on some excellent seminars, it would be useful to know about them and to be invited, as members of the Legislature, where appropriate to participate in them.

I am talking not only of the human relations and skills training programs, but also some content programs. There are programs for which you do bring in people from other jurisdictions to talk about policies and programs in the United States, Scandinavia and elsewhere. The only professional development I can see that we get as members of this Legislature is our committee work. Occasionally, we have opportunities to meet with other parliamentarians or to hold public hearings on a particular bill and thus to get an opportunity to learn from experts and other knowledgeable people.

As a strong advocate and promoter of public service training and private enterprise training in Toronto, it seems to me some of us would be interested in taking advantage of these programs.

The whole area of dealing with employees whose jobs are redundant and will have to be terminated, or whatever other words you want to use, is dealt with on page 3. Is it a fact that the Civil Service Commission spent well over \$1 million in the last year on termination payments to management-level employees who wished to leave, or what was the exact amount paid?

I have no way of verifying this, so I would like you to verify it. I got the information from someone a month or so ago. Was one employee paid somewhere in the vicinity of \$115,000 over a two-year period as part of a bargain that he would not speak to the press about his termination? In particular, how much, if anything, was paid to a person by the name of Ken Singleton? 11:10 a.m.

On page 4, you talk about the commission having successfully sponsored workshops and symposiums for ministries to demonstrate and share their knowledge of the best practices and so on. I am wondering if the commission has used the Office of the Ombudsman in the training of public servants. One of the interesting things that has happened with our new Ombudsman, who I think will go down as one of the great Ombudsmen of current times, is the process he has adopted, which I have been requesting for years and which Friedmann, the British Columbia Ombudsman, developed to a great extent, of the identification of systemic problems.

The identification of systemic problems means you could go to the BC Ombudsman's report, and to a lesser extent, but none the less to the first Ombudsman's report by Dr. Hill where it is appearing, and identify procedures which are systemically unjust or wrong. If we could stop those systemic problems from happening, then we would stop an awful lot of the case work the Ombudsman has.

This is an important development in our present Ombudsman's term which has not happened with previous Ombudsmen. I am very encouraged by it and perhaps it is one of the reasons I am so enthusiastic about the new Ombudsman. It was pioneered in British Columbia. One of the things we have to do is that the public service and the Ombudsman have to develop, if you want, a program of the—I do not like to say do's and don'ts because it sounds like a cut-and-dried sort of thing.

Let me put it this way. In management training we develop a series of cases and people can be put through a process where, by discussing such cases, they can analyse what is the correct action in a given situation. If you were to put some resources into developing a program based on some of the Ombudsman's reports—and I do not mean just the Ontario Ombudsman's reports; I think perhaps some of Friedmann's reports in particular would be useful—then you could develop a system of training whereby public servants would understand the kinds of processes that are wrong and correct those processes.

I suspect that would tremendously reduce the work of the Ombudsman and the select committee on the Ombudsman and the tremendous perspiration by certain public servants who have to answer before us in that committee for wrongdoings. I think most public servants do not deliberately go out and get someone, but it is an error of judgement. I think the judgement can be refined.

I would like the minister and perhaps his staff and the director of staff training for the Civil Service Commission to comment on that and explore that possibility. I think it would save the taxpayers millions of dollars and the various ministers millions of moments of aggravation.

Page 4 talks about an estimated 3,400 employees in the public service who perform ongoing and continuous part-time work. Can we can have an update on exactly who those people are? While the minister is saying this provides a great opportunity because some people do not want to work full-time, many sociologists have indicated that a lot of part-time workers are simply people who cannot get full-time work and in a sense are being exploited by corporations and in some cases by government.

By simply putting somebody into a part-time position they often, because of dedication, end up doing full-time work at part-time salary, if they happen to be in one of the more professional sorts of positions. I am wondering if we can have a breakdown on that.

The other thing that has come up in the Legislature and that relates directly to this—I am sorry, I am finding it very difficult to talk above the sound of these other conversations.

Mr. Chairman: Gentlemen, please, I am finding it hard to concentrate.

Mr. Philip: If what I am saying is not of interest to you then please go outside. I would rather you do that than drown me out.

Mr. Chairman: Continue, Mr. Philip.

Mr. Elston: I apologize, Mr. Chairman.

Interjection: Why do we not take a vote?

Mr. Chairman: Continue, Mr. Philip.

Mr. Philip: Another matter related to this that has become a problem not only in Canada but

elsewhere-some of the worst examples have been in the United States-is double-dipping, that is, when a public servant-or he can be an MPP or an ex-cabinet minister-retires and then comes back on boards and commissions and other things for which he is receiving a full pension plus extra remuneration.

Sometimes, if they double-dip or triple-dip at the trough, they can end up with a couple of pensions plus a fairly lucrative salary. In the United States the worst examples of it have been some of the retired military people who come back as military consultants and who also have a full military pension that is fairly lucrative after 20 years in the service. Sometimes they have come back to the public service, received a pension a second time and are still coming back for the third time at the trough.

These people may have valuable information to contribute. I really wonder, though, if we should not be looking at some kind of guidelines as to whether or not, when one is earning a full-time salary, he should also be collecting a public service pension at the same time. I think it has to be done in such a way that there is not a disincentive for the person who has a skill the minister or a commission feels is important. because of his experience and because of the amount of money taxpayers have put into this person in training over the years and because of other experiences, to use this talent.

At the same time, I think there is gradually becoming, as there has been in the US, a tremendous feeling by the taxpayers that this is wrong. I am afraid of the kind of backlash that will hurt a process which, by its very nature, does not have to be wrong. There is nothing wrong with someone coming back and the government and the taxpayers using his talents, if he happens to be a man of tremendous integrity and knowledge. The taxpayers have often paid for that learning, but they are objecting when people are earning a lot more money by retiring early and then coming back on the payroll, rather than if they had stayed in their original positions.

There is a great deal of talk about the new technology. The minister announced that he has set up a council to look at this. I wonder if he will comment on whether or not this committee or council will be looking into the whole question of the right of privacy?

I have introduced a fairly extensive private member's bill on that. The Honourable James Snow introduced legislation some time back that would protect the privacy of medical records of truck drivers, but we seem to be approaching the right-to-privacy issue in a scattergun approach.

Some interesting research has been done at the University of Waterloo on this whole problem. It is not just a problem of government information banks. One of the interesting appointees, for whom I have a lot of respect, is Phil Lind of Canadian Cablesystems.

11:20 a.m.

One of the interesting things a lot of communications experts are worried about is that, with the advent of the cable system, it is possible to collect massive amounts of data on people without their knowledge, simply by monitoring their viewing patterns, their consumer patterns and so forth. I think this is something we have to come to grips with.

The government has a right not only to protect people from the invasion of their privacy by government, but also by private corporations that may be providing what often is a monopoly kind of service, such as that of Bell Canada or cable companies, or other data-collecting bodies. I

hope we can get into that.

I am always concerned-it is like an antenna going up-whenever I see the words "rewards and incentives to support excellence in management." You talked about that on page 8. I am always in favour of that if, by that, it means professional types of rewards. I am always concerned about it if it means the kind of abominable experiments which have gone on in the US in particular, but also in some other jurisdictions, about merit pay.

I trust that is not what is being talked about because merit pay simply makes no motivational sense. The research by the General Accounting Office in the US has shown it makes absolutely no economic sense, that it is divisive, that it violates every rule of motivation, including Maslow and some of the latter-day prophets and spinoffs from Maslow.

I hope it does not mean we are going to introduce any kind of financial incentive. That simply does not work. A public servant should be paid a good salary because of the position he is in. The moment you start giving extra financial awards for a good manager versus a mediocre one, then you find they start hiding files, they stop sharing information with one another, they stop acting as resources to one another, and competition enters to the point where often the mediocre are rewarded.

I would refer you very strongly to the research done by the GAO in the US. Unfortunately, the American government has got into this system.

Sometimes when you start something it becomes an albatross and it is hard to shoot the albatross. They are still stuck with it, but from my experience in talking with Americans, I have yet to find anyone who said it worked. Indeed, most of them, if not all of them, will say, "For heaven's sake, we wish we did not have this and we would like to get rid of it." Some of them have found various ways of getting around it. I hope this is not the direction we will be going in any way.

I have some concern about the length of time the Price Waterhouse study is taking. I would like to know the reason for the delays. The minister will recall, as Mr. Elston has pointed out, the report was supposed to be in our hands this fall, I believe. Is that not correct? I have a clipping here that says something to that effect. Why has there been such a delay? I hope later in the estimates we can go into some of the criteria they are looking at.

I also find it interesting that you are talking about whom it is going to go to and no mention is made of the standing committee on public accounts of the Legislature or the Provincial Auditor. I am wondering what kind of consulting process Price Waterhouse is going to have with that committee.

Is it something that is going to be dropped on us after the final report? Are you meeting with Doug Archer and his people? What is the role of the internal audit staff in each of the ministries in feeding in information to the Price Waterhouse study? If you set up a very effective internal audit system, then you remove many of the abuses that we have seen over the years. Theoretically, although it never works in the real world, an adequate internal audit system should mean that the Provincial Auditor will have no work to do. I have never seen a perfect system and I do not expect that Doug Archer or his successor 100 years from now will be out of work. I hope Price Waterhouse is consulting with the internal auditors in each of the ministries.

I will say a couple of words on the bicentennial business. I am wondering what kind of monitoring system you have on that. As someone who has spent some time studying and writing history, it is my view that you have a phoney 200th anniversary, but I am not going to go into that.

Now that we have decided that Ontario is 200 years old, what are the monitoring systems on that? It is claimed by the government that this is a nonpartisan activity, yet I find Mr. Nick Leluk inviting the city council to a bicentennail awards

presentation ceremony to be held on December 9 at 2 p.m., and he does not invite me, at least, as an MPP. Maybe Mr. Kolyn was invited. I am not sure.

Mr. Chairman: I am in the same category you are in. I have not been invited.

Mr. Philip: In making this statement, I am not attacking most ministers. When I checked with my colleagues, most of them said the minister who is making the presentation has invited us to the stage to shake hands with people, and it has been appropriate and fairly nonpartisan, as nonpartisan as one can be; if a fellow happens to be in the government, he is the guy who gets to present the awards. No one questions that.

In this case, when I spoke to Mr. Leluk yesterday, he simply made some rude remarks, such as: "I am the government. You have to understand, I am the minister, and this is the way things are. If you want to come, I guess you can show up."

I do not think that is the appropriate way to handle something like this. Surely, the city member for the area, be it myself or Mr. Kolyn, should be invited to be on the stage with the minister to shake hands with the people who get the awards. There are awards for good citizenship and that should be a nonpartisan activity. Some ministers are doing that; others are not. Some monitoring of that should be done.

I had a similar case when Mr. Snow arrived in my riding and invited all the council, including the mayors of Mississauga and Etobicoke, to a bridge opening that was just down the street from where I live, but he did not invite me. I know it is getting close to an election, but for heaven's sake, there should be ways of dealing with these kinds of things. It should not be left simply to the discretion of a minister. One minister will act appropriately and another may act in what may be seen as a more partisan, or less nonpartisan, manner.

To ministers such as Bob Welch and others who have behaved in a manner that is beyond any kind of chastisement, I say more power to them, but in the case of Mr. Leluk I found his attitude quite inappropriate. In the case of Jim Snow it was probably just an error and he was quite happy when I pointed it out to him.

11:30 a.m.

I would like to talk for a minute about the Parsons case, and I want to deal with it from a policy point of view rather than worrying about who this man is working for or whatever. It seems there is a void in policy and we have to come to grips with it. There are misunderstand-

ings that appear in two areas. One concerns the leave of absence for political purposes and the other is the status of a person seeking a nomination for his or her party.

We have had an instance reported in the Legislature of a man seeking the Conservative nomination being temporarily reprimanded. I understand there is a hearing on it. He is out of a job because he is seeking nomination in a

particular political party.

I use that example rather than some of the other glaring examples where they happen to be members of the opposition because I want to keep this nonpartisan. I feel sorry for that man. He obviously feels strongly about supporting the Conservative Party. He wants the honour and responsibility of representing that party and being its standard-bearer. His initiative has been reprimanded by the powers that be, and I understand he may or may not have a job.

When we look at the act, it is fairly clear. "Except during a leave of absence granted to be a candidate in a provincial or federal election, a crown employee shall not be a candidate in a provincial or federal election, serve as an elected representative in the Legislature of the province," and so forth, "solicit funds for a provincial or federal political party or candidate or associate his or her position in the service of the crown with a political party."

That leaves me with a question. How does one become a candidate for a political party, so that one can take a leave of absence, without doing a tremendous amount of political activity in order to get the nomination? As I understand the act, it means that the public servant, the moment he decides he wants to be the Conservative candidate for Lanark or wherever, is then placed with this dagger over his head that at any time his public service job can be terminated.

Those of us who are knowledgeable in the political field know that it can take six months, a year, two or four years building up and working with a party to get the confidence of those people, selling the memberships, to make sure you win the nomination. At all times, one is placed in this kind of precarious position. We have to come to grips with that problem.

"During any other leave of absence a crown employee continues to be a crown employee and is subject to the limitations of the act. It is permissible for a crown employee other than a deputy minister or a position designated under schedule 2 of regulations to seek the nomination for his or her party. However, a prospective candidate must be constantly aware of the

express prohibitions under the Public Service Act."

So you are allowed to seek the nomination. Once you get it, you get a leave of absence, but God help you if you are effective and active in the months leading up to obtaining that nomination. We have to deal with that. It is simply nonsensical. One cannot say to people that it is okay to be a candidate and a person can have a leave of absence if all the activities leading up to being a candidate are verboten and will get one into trouble. That is double jeopardy.

It is also absolutely ludicrous that a public servant can get himself into trouble for putting a New Democratic Party sign on his lawn while Mr. Lou Parsons can work part-time and is seen to be okay. The Robinette decision—I have great respect for Mr. Justice Robinette—said: "However, in my view, section 15 of the Public Service Act does not prohibit Mr. Parsons from working or acting for, on, or behalf of a candidate for leadership of the Ontario Conservative Party during working hours, whatever they may be. On the other hand, section 15 does not prohibit him from so acting out of his working hours."

I do not know how one makes that kind of distinction. Why is it that John Brown, who happens to be a cleaner in the Legislature, is intimidated from putting an opposition member's sign on his lawn while this guy can work part-time, collect a salary that is probably two or three times that of the cleaner, and can actively work for a candidate and for the Conservative Party without any kind of problem?

We have a double system at work, and the ministry will have to come to grips with it and come down with guidelines which I hope will be a little more liberal, if you will excuse that word, in the rights of public servants to participate in political activity.

I would like to do some following up on the last year's estimates. There are a number of promises the minister made, and I ask what he has done in the interim.

Last year the minister talked about the ongoing review of purchasing policies. Supposedly, this review seeks to maximize purchasing opportunities in support of the growth of Canadian manufacturing and research and development capabilities.

What has the minister done in the last year to promote economic development in Ontario through his purchasing program? The ministry has talked about extensive computerization programs. Since this is one of the high-tech areas, what is in place to ensure that the

technology being developed is Canadian and not simply purchased from other countries?

Have you replaced any imports with domestically produced goods in the recent year? If so, can you give us details? Management Board is supposed to be monitoring this economic development program.

Last year, I asked the minister if Management Board had a policy on buying unionized products or, at least, buying from corporations which paid union wages. I also asked if Management Board would use its purchasing prerogative to discourage firms from discriminatory practices against women. The minister's response was that he had not examined these aspects and indicated the cabinet as a whole might want to look at it.

I would ask the minister if he would like to refer to his response on page 2806 of Hansard of November 4—whether or not the cabinet has now looked at that, whether there is any progress on it, and whether there is any policy about favouring companies that pay union wages, whether or not they are unionized, or whether they have affirmative action programs, and so forth.

Last year, you claimed that 80 per cent of employees displaced through technological change had found alternative employment within the government. This time in your opening statement on the estimates you made reference to the program but you have not given any figures. Is it still at 80 per cent?

Do you have any records on whether these people are receiving equivalent salaries or on what percentage of them will have been downgraded or upgraded in their search for employment? It would be useful to know what the pattern is.

11:40 a.m.

We have your 80 per cent figure. Is that constant, or is it increasing or decreasing? Also, at what level are these people being placed?

I know one fellow who is a middle-level manager and who is now stacking bottles in a liquor store and quite happy to have something to do after being unemployed for some period of time. However, I would certainly see that as a downgrading and an 80 per cent figure may seem good to some, but if it means that kind of placement, one really wonders whether it is anything to boast about.

You also made an announcement in your 1983-84 new policies about the use of consultants in the public service. I would like to know whether or not this has been introduced or

whether this is waiting for Price Waterhouse Associates to make their recommendations.

You also mentioned that the new policies were to clarify procedures for the purchase and use of services of technical, management and systems consultants. Are you planning immediately any changes to the Manual of Administration in this regard?

Last year, we talked at some great length about the problem of government advertising. I would ask the minister whether or not there are any updates on this. Is the government justified in spending such huge amounts on communication services when we have such austerity in other programs?

In the Legislature, not so long ago, I pointed out there had been tremendous increases in advertising budgets of certain ministries, and that they seemed incompetent—they have to go back and ask for more money because they have overruns, in some cases, of more than 100 per cent.

What are you doing to monitor that kind of thing? Why is it certain ministries have an increasingly larger budget for advertising? Why is it their objectives are so poorly stated and they have such large overruns? Perhaps we can deal with that problem in some detail.

You were also going to report back any research in setting up a central travel agency. That was one of the things we talked about on page 2812 of your estimates last year. It may be a way of saving taxpayers' dollars. You said you would look into this and report back. I would like to know what has been done on that.

You also talked about having your staff review the Manual of Administration with respect to speech writing. That is on page 2801 of the estimates, and I would ask for an update on that.

The other area I want to deal with in some detail—and perhaps we can get into it a little later as we start getting some of the minister's responses—involves the concerns of the Provincial Auditor about crown corporations, and their accountability. The auditor believes, despite what Management Board of Cabinet officials said in June 1983, that there are still areas in which a certain degree of accountability to the government and the Legislature is lacking on the part of incorporated crown agencies in Ontario.

One of the major issues is the role of the Legislature. During the three fiscal years to March 1983, 16 new crown corporations were incorporated. Of these, only three were the direct result of legislation requiring the specific approval of the Legislature. These three agencies

were the Innovation Development for Employment Advancement Corp., the Ontario Waste Management Corp. and the George R. Gardiner Museum of Ceramic Art. They were all created in the fiscal year 1982.

Five corporations were incorporated under the Business Corporations Act or the Corporations Act: the Ontario Trillium Foundation in 1983; the Ontario Van Pool Organization in 1981; the Metropolitan Toronto Convention Centre Corp. in 1981; the Ontario Educational Services Corp. in 1981; and the Ontario Waste Management Corp. in 1981. Eight agencies were established by regulations under related legislation. I am not going to list them all, but I am sure you are familiar with what they are.

Section 3.15 of the Provincial Auditor's 1982 report made reference to certain wholly-owned subsidiaries of the Ontario Energy Corp. and the Urban Transportation Development Corp. These subsidiaries were all created without specific approval of the Legislature.

Does the minister not feel that the auditor and the public accounts committee have expressed some legitimate concerns? Recommendation 12 of the 1983 report of the public accounts committee requested that the government consider whether or not the authority possessed by the auditor under the Audit Act for access to crown-controlled corporations should be extended to include the subsidiaries of crown-controlled corporations.

On March 7, 1984, the Treasurer (Mr. Grossman) responded: "There is no disagreement in principle with this position. We are prepared to clarify the Provincial Auditor's right of access to these subsidiary corporations."

I wonder whether the minister now has met with the Treasurer and whether there is a policy coming down that would enable the auditor to have greater access, and if ways are developing in which these crown corporations can be more accountable to the Legislature.

I could go on to some extent—and perhaps we could do that later—looking at how other jurisdictions are dealing with the accountability of crown corporations, but it is fairly clear, as the auditor has pointed out, that the estimates process is not working. The process is too demanding of members' time, resulting in superficial examinations. Members of committees change; there is a lack of continuity on the committees. Also, as the auditor correctly pointed out, sometimes partisanship results in the skirting of essential issues to deal with more newsworthy issues.

We have to come to grips with the way in which crown corporations and their subsidiaries are accountable to the Legislature and to the ministers. Perhaps the minister might comment on some of the procedures being tried in certain other jurisdictions, including some other provincial jurisdictions.

In dealing with crown corporations, he also may want to refer again to the Parsons case and talk about political activity in crown corporations, about where the Manual of Administration prohibitions end—at what level in those crown corporations, and in what type of crown corporations etc. We really need some clarification in this and it may well be that we have to make some changes to the Public Service Act or to the guidelines for the operation of crown corporations in order to deal with this.

11:50 a.m.

There are a few interesting statements made by the minister and by other ministers which have made the headlines that lead directly to this. One is an article which I was unsuccessful in trying to locate. Unfortunately, I did not cut out the clipping when I saw it.

It was a report in the Toronto Star, I believe, some few weeks ago, in which it stated a great number of deputy ministers from different provinces had attended a dinner at which Michael Wilson, the new federal Minister of Finance, was the speaker. I would like to know which deputy ministers attended, what was the cost to the taxpayers and what was the purpose of spending this money.

It is my understanding that the cost ran at something like \$900 a plate. I cannot believe that is true, but that is the figure that sticks in my mind from the newspaper article.

I have had the library looking for it. They cannot find it. I know I saw it and that I was not fantasizing when I saw it. It was a very small article.

Was there a dinner at which Michael Wilson, the new federal Minister of Finance, was the guest speaker? Who attended at the cost of the taxpayers of Ontario, and what was the cost?

The Premier (Mr. Davis) has made it clear that government aircraft will not be used for campaigning in the Conservative Party leadership race at the taxpayers' expense. What monitoring process does the minister have to ensure this, not only for the four principal candidates—if you read the gossip columns in certain newspapers, you are waiting for the member for Oriole (Mr. Williams) or some other fifth candidate to announce—

Mr. Chairman: A good candidate.

Mr. Philip: I am sorry, John.

What monitoring process do you have in dealing with this? How can we be assured that this is taking place?

There was also an interesting article in the Toronto Star on November 2, 1983, in which this minister stated, "One of the ways of reducing government is to look to the users or beneficiaries of a program to share the costs involved." That sounds an awful lot like Mr. Wilson's recent statements.

The Minister of Health (Mr. Norton) immediately jumped in and dissociated himself from this minister's statements. I am wondering if we can have an update on that.

What is it you were talking about? Do you have specific programs in mind that you are planning on adding that we do not know about, or would you like to add fee-for-services? Why is Mr. Norton so defensive about your statements? Is there something that perhaps the Legislature should be aware of? What exactly did you have in mind when you publicly made that statement? Are you supporting Norton for leader?

Mr. Chairman: I did not think he was running.

Mr. Philip: There is the fifth candidate.

Another interesting item is the Ontario Provincial Police telecommunications. The original estimate was \$24.4 million. It is now \$66 million. What is the process that your ministry may have used in monitoring that project? Do you have any comments as to why you have that kind of an overrun?

I am not going to mention the minister's name but there are some interesting articles—

Mr. Elston: Are you involved in a coverup?

Mr. Philip: In an article written by John Cruickshank of the Globe and Mail on November 9 he talks about a certain minister's office being used—and, indeed, about him writing letters in support of a certain candidate. "No one from the campaign organizations for Attorney General Roy McMurtry, Treasurer Larry Grossman or Agriculture Minister Dennis Timbrell would comment..." That would lead one to suspect that Mr. Bennett was using his office for some other candidate.

All of us are big boys and we know that if someone calls-

Mr. Chairman: You promised you were not going to name names.

Mr. Philip: I did not-oh, that is right.

Mr. Chairman: You did. Carry on.

Mr. Philip: It just goes to show, when I am trying to be nice, I get too informal and let something slip.

Are there any guidelines you set down to monitor this kind of thing? No one in his right mind believes that if Claude Bennett is supporting Frank Miller he is not going to make phone calls from his office, he is not going to receive them, and perhaps some of his staff are not going to be involved in answering requests for information and so forth. It is impractical not to do that. What is the limit of this?

I do not, personally, see a great deal wrong with a minister answering requests for information and telling why he supports a candidate and so forth, but when does it become an abuse of the taxpayers' interest? We are not talking about \$100, \$200 or \$300; this is the ongoing cost of being a politician. Is this an abuse?

The Speaker wrote to us, telling us that we could not use our party colours on the signs on our office doors. I find that extraordinary. Everyone knows I am a New Democrat and that I am likely to have the sign on my door made up in orange lettering. Mr. Kolyn may have his in blue lettering. We are not hiding what party we belong to.

When you have the Speaker resorting to these kinds of extraordinary measures, telling us we must have our signs remade on our office doors so they do not know we are NDP or Conservative—if that is the case—one has to ask what your guidelines are for Mr. Bennett and so forth. It seems we are left in a no-man's fuzzy, fuzzy world.

It happens that Claude Bennett gets caught; he is the one who makes the newspaper headline. He is probably no more deserving of being singled out than any one of a whole bunch of other people who may have, through omission or through carelessness, fallen into this. Surely we have to come to grips with what is the ongoing, reasonable thing for a politician to do. He has to do it anyway because he happens to be elected and because he is partisan. What is an abuse? You may want to—

Mr. Williams: Did your leader not send out a letter the other day on the letterhead of this assembly, raising funds for your party?

Mr. Philip: I do not think it was done at public expense.

Mr. Williams: Still, it went out on the letterhead of this assembly.

Mr. Philip: That shows the issue.

Mr. Williams: It shows the inconsistency of your argument.

Mr. Philip: We have to define what is a serious offence and what is just silliness.

Mr. Williams: You should take a closer look at what your leader has been doing.

Mr. Philip: Precisely. If that is what is done, is it contrary? Is what Mr. Bennett did contrary? There is a limit to how penny-and-dime you can get and we have to start spelling out what the limits are.

Mr. Williams: You are asking the minister to look into Mr. Bennett's situation.

Mr. Philip: I did not ask the minister to look into Mr. Bennett's situation. As usual, you have not paid attention.

Mr. Williams: I thought you were leading up to that.

Mr. Philip: What I asked the minister to do is to comment on how far the guidelines should go and specifically what the guidelines should be. Some of this stuff is nickel-and-dime and should not make the headlines of the newspapers; it is part of the ongoing, normal operation for any elected politician. Some of it is more serious. We simply should know what is reasonable and what is unreasonable.

Mr. Chairman: Gentlemen, if we are going to get any comments from the minister, I think we should get on with it. In my recollection, he has a lot of questions to answer. I do not know whether he is prepared to answer them all at the present time.

It has been indicated to me that Mr. MacQuarrie and Mr. Mitchell have a few questions and we have a guest with us. Mr. Sargent has a few questions. Could the minister start replying to some of the questions of the critics?

12 noon

Mr. Mitchell: Mr. Chairman, if you might allow me to raise a question with you, I believe the time allocation for the minister's estimates is five hours?

Mr. Chairman: Yes, we should conclude tomorrow, after routine proceedings.

Mr. Mitchell: I think we should make every attempt to do that, because it would be somewhat foolish if we had to come back here on Friday, for 15 or 20 minutes or whatever short time, to complete this.

Mr. Elston: We will still have time left over on Friday.

Mr. Chairman: The clerk informs me that if we start at 3:30 p.m. tomorrow, we would only

have to do two hours and five minutes, which would give us the time.

Mr. Mitchell: To what time are we going today?

Mr. Chairman: We are going until 1 p.m. today. Mr. McCague, are you prepared to answer some of the questions today and leave some for later or would you rather answer some of the questions of the other members?

Hon. Mr. McCague: It does not matter.

Mr. Chairman: Would you proceed with replying to some of the critics' questions?

Hon. Mr. McCague: One of Mr. Elston's questions was about the contingency fund. It exists to pay salary settlements.

In other words, the estimates you have before you for this year do not include whatever increase in salary will be awarded to employees. That is all put in the contingency fund and then it is claimed by the ministries through the year when the settlements are complete. They are not all in yet; there are still about six under arbitration. That is the basic component of the fund.

Maybe Mr. Carman would elaborate.

Mr. Carman: Mr. Chairman, in the mid-1970s, when the public accounts and one of the other committees of the House were examining the activities of Management Board of Cabinet, there was quite a bit of criticism about the fact that board orders were given for salary awards. That procedure was increasing the actual amount of money spent by the government.

At the time, we explained to the committee that the difficulty was you could not know in advance what would be paid out. In order to have a more accurate representation of total expenditures, it was decided to put a block amount in this contingency fund.

In actual fact, in specific answer to Mr. Elston's question, there is never any money spent out of the fund and that is why it shows as blank for each previous year. There are never any funds that are actually flowed out of that particular vote item.

Instead, as ministries come in and ask for money, we show in our records what we call an offset against the contingency fund so that the total amount of spending by the government does not increase but the spending is finally shown in the estimates of the individual ministry where those salary awards took place.

Some ministries can offset their salary awards, so the actual amounts in the Management Board orders, if you calculated them through some kind of statistical process, might not appear enough to

cover the award. However, where ministries do not staff up or actually have programs that achieve objectives with less funds, they can offset the total amount of the awards and the board votes them only the net amount actually required for those particular salary increases during the year.

Mr. Elston: You might tell me how much of this money was actually offset. If we are voting \$158 million this year, then next year presumably, or somewhere along the line, a ministry will come to you and ask for some of these net allocations. Where do I find them in the estimates? How much of those moneys have been allocated in that fashion? Would I have to go to each individual ministry to see where that is? Why would you not keep some record of that in your estimates as well, to show exactly how accurate your projections are with respect to this contingency establishment?

Mr. Carman: We could get that information for the member if he would like; we can provide that tomorrow.

Mr. Sargent: Along that line, what ministry is the biggest drain on that?

Mr. Carman: The ministries that have the most staff; Health, Community and Social Services, Transportation and Communications.

Mr. Elston: Are there any other programs? If the entire block is not offset against these expenditures by ministries, are any of these funds used for purposes other than salary offset?

Mr. Carman: The amount shown there might be underspent in the sense that we may have overestimated the salary awards. In recent years, we have had just the reverse experience at times. The amount that is actually awarded by the board is sometimes greater than what is in the contingency fund.

Mr. Elston: If it is greater than what is available in the contingency fund, where do you find the resources? You have already mentioned better spending inside the ministry. What about the situation where the ministry has the award and there is no money in its fund and there are no allocations to be made for this?

Mr. Carman: The answer to that is that in each case the board has the authority to increase an appropriation through a Management Board order.

So, technically or theoretically, the board does not have to find an offset, but because of the expenditure policies of the government, it has been determined that in most cases offsets have to be found. They can be found through any other vote that for one reason or another is underspent, or they can be found from what we call the year-end serendipity, which is that sometimes ministries do not achieve everything they intend to get done during the year and funds do lapse.

Mr. Elston: How many times has there been occasion—

Mr. Chairman: Excuse me, Mr. Elston. I do not want to prolong this debate, but if we are going to get any answers from the minister, we have to give him a little time. Then we can come back and debate it.

Mr. Elston: I am not debating. I am getting answers, with respect, as to where we get the money for this particular vote.

I just have one other question. How many times has there been a special Management Board order? How is that accomplished?

Mr. Carman: When I met with the standing committee back in the mid-1970s, we agreed we would post all Management Board orders. As a consequence, those are now a regular part of the reporting process. They are all posted and there is a running indication from year to year as to the size of them and the individual amounts and the ministries to which they have been provided. That is now public information and is regularly tabled each year.

Mr. Sargent: Could I ask one brief supplementary question? Is this "contingency" a common practice in accounting in federal and other provincial governments?

Mr. Carman: It is not, because none of the other governments have the Management Board order capacity. In other words, this is a rather unique power that Management Board of Cabinet has. Prior to that, the Treasury Board had it. As a consequence, there is not the same need to have an offsetting fund to accommodate the in-year approvals that are given for salary awards. The other governments do it through supplementary estimates, Mr. Sargent.

Hon. Mr. McCague: Mr. Elston also mentioned the first letter that came from J. J. Robinette regarding public servants, and it was also raised by Mr. Philip. I have no objection to giving you a copy of it.

12:10 p.m.

The reason for that letter had nothing to do with Mr. Parsons. You will recall that the letter was to get some clarification for our staffs, based on the fact that there was a leadership convention in this province for the Progressive Conservative Party. The contents have been no secret.

I also have a letter Mrs. McLellan wrote to all deputy ministers, setting out the leadership campaign rules. I think if you recall, they showed up also in Topical. Here is a small version which I think Mr. Philip has seen.

Mr. Philip: Yes.

Hon. Mr. McCague: I think Mr. Elston has also seen it.

Mr. Elston: I have not seen that particular document.

Hon. Mr. McCague: There it is. We probably need one more copy for Mr. Philip.

Mr. Philip: I have a copy here.

Hon. Mr. McCague: The two letters were not connected and that was the basis of the question asked of me in the House.

As sort of a companion to that, Mr. Philip asked me about someone he did not name, who was required to resign to seek the nomination for a political party.

If you are on schedule 2, it is really a condition of employment that you will not seek a nomination unless you resign. I am not going to deny that the Public Service Act should not be reviewed from time to time, but I do not think you can deny it is a reasonable condition of employment and it should be lived up to, as may be the case with the person you are mentioning. You did not give me the name.

Mr. Philip: The name I was mentioning was Mr. St. Onge, of Sudbury. He was in the field office of the Ministry of Northern Affairs. As I understand, he was fired because he sought the Conservative nomination. Is that presently being grieved?

Mr. Scott: Yes, the case has been heard.

Mr. Philip: What is the result of the case?

Mr. Scott: The decision has not yet come down.

Mr. Philip: Without commenting on the merits of the case, it seems to me there is a basic unfairness if this guy Parsons can go-let me remove it one step from the Parsons case.

It seems to me basically unfair that I can campaign for you for the leadership of the Conservative Party and still keep my job, while at the same time I cannot campaign for myself to be a nominee for that same Conservative Party. There is a blatant injustice in that. I think it has to be clarified.

Why should Parsons be allowed to go around campaigning and organizing for a leadership candidate of a party while theoretically Parsons could not seek a nomination for himself? To me,

the distinction makes absolutely no sense whatsoever. It is ludicrous. Maybe the minister can comment.

Hon. Mr. McCague: In the case of Mr. St. Onge, as I said before, it is a condition of employment. He is on schedule 2. Mr. Parsons is not a schedule 2 employee by an earlier legal opinion, which you have.

Mr. Philip: Does the minister feel any changes are needed as a result of looking at what I think is a basic unfairness in the system? Will there be a review of this?

Hon. Mr. McCague: As I say, there is no problem with reviewing items from time to time. I think what you are expressing is more of an opinion than an actual injustice. I will be glad to have a look at the situation. That does not mean it will be an unanswered question next year.

Mr. Philip: It seems to me there is a basic injustice when you can have a high-level, highly-paid person such as Parsons get away with it, while an ordinary line public servant has his democratic rights removed. That strikes me as basically unjust. It is an injustice which some provinces, such as Saskatchewan, have corrected. I ask you to look at it seriously.

Mr. Chairman: I think in fairness he said he would look at it. He did not say he would not look at it.

Hon. Mr. McCague: Someone also asked about the name of the book by Mary Baetz. It is called The Human Imperative: Planning for People in the Electronic Office.

The Price Waterhouse study has been asked for two or three times. I am wondering why the report is not here.

Subject to some correction, I do not think I said at any time that we would have this study any sooner than by the end of this year. I will check that out, but the due date was the end of the year.

Someone was wondering how we had done in the placement of surplus employees. The figure of 80 per cent was mentioned last year; they asked what the record is for this year. It is 78 per cent.

The decrease reflects the problem we are having at the Bluewater Centre where quite a few employees were unable or unwilling to relocate quite some distance away. As you know, we are hoping to correct that situation when the Bluewater Centre is converted to a facility for young offenders.

Mr. Philip: I can give you your quote, Minister, when you said the Price Waterhouse study would be ready. You were quoted on

February 21, 1984-or maybe it was February 2, 1984-in the Toronto Star-

Mr. Sargent: It was the 21st.

Mr. Philip: Was it the 21st? You have the same article.

Mr. Elston: It was the 24th.

Mr. Philip: "In a speech prepared for delivery to Wasaga Beach Rotary Club last night and released earlier at Queen's Park, McCague said the government's new management consultant will be chosen by next month and will report by this fall." That is your statement.

Hon. Mr. McCague: I am a few days out, I guess, but in the press release we put out from the office it was the end of the year.

Mr. Elston: I have another article which is from Topical, February 24, 1984, Mr. Carman indicated: "The secretary announced that the Manual of Administration will be reviewed as part of a consulting study in the government's management and accountability framework to be undertaken soon and completed by late summer."

Hon. Mr. McCague: I referred in my statement to the fact that they brought it to the point of discussion with deputy ministers and the formulation of their report by the end of the year.

The question was raised about how much was spent on staff development in the Ontario public service. The total in 1981-82 was \$5.9 million. In 1982-83 it was \$6.1 million. Do we have a figure yet for 1983-84?

Mrs. McLellan: No, sir, we do not have that figure. We expect it very soon.

Mr. Philip: Does that include whatever white word you use for assisting people to phase out, or termination counselling? Is that a separate program that is not included in staff training?

Hon. Mr. McCague: That is correct.

Mr. Philip: How does that relate to the overall rate of government costs of operations? I am not a mathematician who can calculate quickly, but it seems to me that during a time of restraint training is the one thing you do not restrain. It is the time when you have to assist people in doing more for less. That is what training is all about. 12:20 p.m.

Mr. Carman: Mr. Chairman, I cannot give you the exact statistic relative to the total direct operating expenditures off the top of my head, but I think it is important to stress one thing.

When I was in the Ministry of Community and Social Services as a line deputy minister, Mr. Philip, we engaged in an enormous amount of the

type of training you are talking about within the ministry as well. Those figures are not in the figures you have just been provided with by the minister.

For any real assessment of the total amount of training and development going on in the government, you have to consider all of the activities in the individual ministries to bring people up to date, with the provisions of the Young Offenders Act, for example, or new highway traffic regulations.

There is an enormous amount of training not recorded here. To get you an accurate figure we would have to canvass each and every ministry.

Hon. Mr. McCague: We will have to get you the answer on the employee. Are you sure of the name of the employee you talked about regarding the two years' salary, or some figure like that?

Mr. Philip: All I know is what I get in brown paper envelopes that have no source attached.

Hon. Mr. McCague: I see.

Mr. Philip: It was a lot better than being the transportation critic, where I had to pick up things on loading docks at two o'clock in the morning.

Hon. Mr. McCague: On early retirement: Just over 1,050 employees took advantage of the early retirement option. I mentioned in my statement that 700 vacancies were of a permanent nature. We had to replace 300 employees, mainly in the Ontario Provincial Police. We were obliged to keep up the complement there.

So of the 1,050 who took the early retirement option, 700 are of a permanent nature. You have problems in the psychiatric hospitals and in various places where professionals are required in whatever number. The end result of the 1,050 was 700.

Mr. Philip: There were 700 out of 1,050 who took the program?

Hon. Mr. McCague: No, 1,050 people took the program and we were able to make 700 of those permanent.

Mr. Philip: Okay. Would your program have placed some of these people on other jobs outside of the public service? Do you have figures on that?

Hon. Mr. McCague: No.

Mr. Philip: So you are placing more than half?

Hon. Mr. McCague: No, you are getting it wrong.

Mr. Philip: I am sorry.

Hon. Mr. McCague: For the early retirement option you had to be age 60. There were 1,050 people who took advantage of that option to retire early.

Mr. Philip: Oh, okay. I am sorry.

Hon. Mr. McCague: But we had to refill 350 of those positions, which left 700 that remain permanently vacant. That was because of the OPP and professionals in various ministries.

Mr. Philip: I am sorry, I thought you were talking about another program.

Hon. Mr. McCague: On affirmative action: I do not know how much detail you want on that. Various people want details. Since about 1977 we have improved our position in the senior ranks from about four per cent to about 10 per cent.

Mr. Elston: "The senior ranks" meaning what?

Hon. Mr. McCague: The executive compensation plan and deputy ministers. There are a total of 650.

Mr. Storev: It is 667.

Hon. Mr. McCague: It is 667.

Mr. Elston: Employed women are in that total?

Hon. Mr. McCague: That is the total.

Mr. Philip: May I ask you a question that occurred to me the other day which I commented on publicly when the Liquor Control Board of Ontario turned in its annual report, I think it was last Friday.

Maybe it is just my observation, but it seems to me that there is very little affirmative action in that part of the Ministry of Consumer and Commercial Relations. Do you find there are certain parts of the government that are less open to affirmative action? I assume the Liquor Control Board of Ontario might be one.

Have you been monitoring that so you may be able to exercise some influence on those departments that are maybe giving lipservice but doing nothing?

I would be interested in finding out what the figures are with the LCBO. It does not require a man to put a bottle on a shelf or indeed lift a case of liquor.

Mr. Elston: Those are not the executive positions we were just talking about.

Mr. Philip: No.

Hon. Mr. McCague: We are not monitoring that; I am certain the women's directorate is. All I can tell you is that now, of a total of seven

employees, two are women. They were not there five years ago.

As far as I know, the LCBO is hiring women. Does anyone have any women in his local store?

Mr. Chairman: I have seen a few.

Hon. Mr. McCague: The question was raised about part-time workers.

Mr. Elston: Before you go on, your opening remarks indicated something about looking to the legitimate needs of women. Could you define for us what you perceive those to be?

That was the question I raised and I have been waiting to hear what those legitimate needs are, as defined by the Management Board, so we can understand how the policy of the government is to be developed with respect to affirmative action.

In particular, what representations are you making to the Minister responsible for Women's Issues in your government, the Deputy Premier (Mr. Welch)?

Hon. Mr. McCague: In hindsight, that might have been the wrong word to use, because you might be imagining a whole lot of things we are not going to talk about at this committee. However, I was referring more to the area of equal opportunity in hiring.

We are making strides. If someone has them handy, maybe he could get me the figures, for instance, of the number of interviews we have conducted.

I guess at the risk of making the males who might be seeking employment angry, we have moved from something that might have been classed as unfair to giving women every benefit of the doubt in a competition which was close.

Mr. Elston: Are you suggesting that there is unfair practice on the other side at this stage? Are you not in charge of ensuring the fairness of equal opportunity in the government and setting that down as a hiring practice?

You are not telling me now there are some male individuals who feel their merit has been overlooked specifically for the reasons you might have given before?

Hon. Mr. McCague: I did not say that.

Mr. Elston: What does "every benefit of the doubt" mean?

Hon. Mr. McCague: If it were a tie, I think I know which way it would go.

Mr. Elston: To the runner.

Hon. Mr. McCague: To whom?

Mr. Elston: The tie usually goes to the runner; whoever seems to be more aggressive in seeking the position.

Hon. Mr. McCague: More legitimate needs of fairness and equity in seeking equal employment in the government: I think that is about as far as that goes.

Mr. Elston: Is it a legitimate aspiration for women to look to obtaining 42 per cent of the positions in the province? I understand that is a figure that has been bandied about when discussions are held. Is it within the framework of your policy deliberations to determine that?

12:30 p.m.

Hon. Mr. McCague: I do not think we as a commission have used the 42 per cent figure. Of course, Mr. Welch is in charge of the women's directorate.

We at the commission level are doing our best to upgrade. I think you will find if you advertise a certain job and there are certain qualifications set down, not many women will apply for that job. It may be because they have decided either they do not want to do that job or they do not meet the qualifications. So we are doing all we can to upgrade the qualifications of all women in the government who want to do that.

Mr. Elston: That is part of the retraining programs, at least some of these upgrading programs, you mentioned earlier perhaps.

What are you doing with respect to some of the positions whose definition or qualifications may have been set some time ago? Are you also looking at upgrading those qualifications or the types of people who might be suitable for positions?

Mrs. McLellan: I think the purging of antiquated descriptions was done many years ago when the affirmative action program was set in place in this government in 1973. That was one of the first undertakings we did to eliminate the potential for any kind of bias.

Mr. Elston: Keeping up appearances, at least.

Mrs. McLellan: Absolutely, so that kind of unintentional but inhibiting barrier was certainly removed and that is not an issue. We are a full equal opportunity employer in the sense of access to positions on the basis of merit.

Mr. Elston: I am still wondering what sort of input the Management Board of Cabinet has with respect to Mr. Welch's obligations as the Minister responsible for Women's Issues. It seems to me that you determine, to a large extent, the personnel policy for Ontario and I think it would be helpful to this committee to find out exactly what you, as minister, have been doing to help Mr. Welch implement some of his far-

reaching-at least in the language he uses-programs.

I think this is a very important and key issue. I wonder if you have set up some kind of a study committee. That is generally what happens inside ministries involved in these very important issues. Perhaps you could tell us who those people are and when you expect some deliberation decisions returned to you for recommendations to Mr. Welch or on the establishment of new guidelines.

Mrs. McLellan: May I speak to that? Mr. Elston, when the affirmative action program was established in the government some years ago, it reported to the Chairman, Management Board of Cabinet, for a number of years. For all that time, the chairman tabled the reports of the women crown employees office, which was the internal mechanism for bringing about the kind of reforms and changes you are addressing.

With pressure from inside and outside, the Minister responsible for Women's Issues was named, in Mr. Welch, and that whole emphasis on the affirmative action and equal opportunity program was given to the Deputy Premier.

I assure you the commission works fully and co-operatively with the Ontario women's directorate and with the minister. The earlier good example the Chairman, Management Board of Cabinet, set in achieving affirmative action through all measures included having a senior woman on the commission—who happened to be me, so I guess I can speak with some authority on this—to, in effect, oversee it.

That is continuing and, of course, the fact I am now the chairman of the Civil Service Commission has, I think, given some continuity to the affirmative action program. At least I would hope it would be seen that way by the members.

Mr. Chairman: Is there a supplementary?

Mr. Philip: Has there been any move at all by the commission in looking at those job descriptions and also reallocating salaries so as to be more in line with the concepts of equal pay for work of equal value?

Mrs. McLellan: The subject of equal pay for work of equal value is very high on the public agenda and is in discussion.

In the Ontario government we are negotiating now on some revisions in classification. We feel these go a great way towards the implementation of the composite approach which does adjust and really does provide greater access and flexibity in that area.

The equal pay for work of equal value issue is still being debated hotly. There is no salary

allocation for that. I do not quite know what you mean.

Mr. Philip: Has there been one job that has been either upgraded or downgraded in salary as a result of the concepts of equal pay for work of equal value?

Hon. Mr. McCague: The answer to that question is no. There has been for equal pay for equal work.

Mrs. McLellan: That is correct.

Mr. Elston: Has there been a removal of the policy process from the Management Board of Cabinet to the jurisdiction of the Minister responsible for Women's Issues or is the Management Board also assuming responsibility for developing programs in line with the affirmative action processes of the other ministries?

I asked if you had study groups undertaking analysis and that was not answered. It was probably overlooked because you did give another portion of the answer. I am interested in how this sits at the stage where you are responsible for a decision with respect to personnel in the government, and Mr. Welch is responsible for women's issues?

Hon. Mr. McCague: The personnel issues and the upgrading and retraining, and so forth, all come under the commission. You have to remember that it is through me that the commission reports to the Legislature. The commission is a group of deputies, plus one outside woman.

Mr. Elston: Who is that outside woman?

Hon. Mr. McCague: Miss Lindsay Shaddy, a solicitor, like yourself. As far as the Ontario women's directorate is concerned, their concern is in the area of women's issues.

Mr. Elston: The answer is that there is no specific internal study group or policy analysis at this stage?

Mrs. McLellan: The statistics data, the policy, the review are now properly lodged with the women's directorate for affirmative action both inside and outside the government. We liaise with them very closely. We get submissions from them in the same way we do from the financial officers' council or the internal auditors or other specialized groups. We certainly consider their points of view, but we have not set up a duplicate organization in the commission to do what the Ontario women's directorate is already doing.

Mr. Elston: Do you have a target with respect to the affirmative action program? There must be a philosophy. In the commission there must be a sense of where you are heading, the direction in which you heading. Can you provide that?

Hon. Mr. McCague: The target is continual improvement.

Mr. Elston: My goodness, that sounds lofty. How far are you going to continually improve?

Hon. Mr. McCague: It is very difficult to know. How do you establish a target? You cannot do it. Perhaps you can in some areas, but you cannot in all areas if you are having competitions and are seeking applicants.

Mr. Elston: Is there an optimum level you are looking for?

Mrs. McLellan: The Ontario women's directorate has attempted to establish a target area in certain occupational groups it thinks is appropriate over a certain period of time. The directorate is proposing means and measures to do that, but you cannot fill those positions on merit until the people are ready and coming into the system.

The targets are not really adopted by the commission. We are affected by them, but the action plan of the women's directorate has government support. As part of the government, a central agency, we co-operate fully in assisting in its achievement.

Mr. Chairman: Thank you. Minister, would you continue please?

12:40 p.m.

Hon. Mr. McCague: Mr. Philip raised the issue of a new consulting policy for the government, which I addressed last year at estimates.

We developed a policy at Management Board which we decided to refer to the consultants. That will be a part of their report.

Mr. Philip: I suspected that would be the answer, but I thought I would ask anyway.

Hon. Mr. McCague: I believe it is the right answer.

Mr. Philip: It makes sense.

Hon. Mr. McCague: With regard to the purchasing policy with respect to unionized firms, we do not have such a policy.

From time to time, we hear from your party that we should be dealing with shops that have unions. On the other side of the coin, we hear from the federations of business, be they large or small, that we should have a fair purchasing policy for small business. We have not addressed this issue in the way you probably would like.

Mr. Philip: My point is not that you should exclude nonunion companies, but rather that you might discriminate against companies that may

be paying below the average union wage. Certain American states and governments have done that from time to time and it is simply a way of avoiding exploitation of employees.

I was not suggesting you might consider doing the same, because I do not think you would, and indeed there would be an outcry from some small, nonunionized companies that pay good wages, at union rates. However, I think you might at least consider that certain companies that pay considerably below the union scale or the going wage in an industry should be discriminated against.

Hon. Mr. McCague: We do not have a specific policy. We have a government policy with a minimum wage, which is one side of it which you might discuss with the Minister of Labour (Mr. Ramsay), but we do not discriminate in purchasing policies in any way. We try to obtain the best price.

Mr. Philip: You are not prepared to bring in a policy similar to that in some of the United States jurisdictions, which says that if a company pays considerably below the going rate—which is a form of exploitation of their workers—then you would discriminate against that company?

Mr. Chairman: I think you and I know of cases where you have some small, nonunion shops that pay considerably above union scale.

Mr. Philip: That is precisely the point I am making. I asked the minister, leaving aside whether it is a union shop or not, but at least that those companies that pay considerably below the union rate might be discriminated against.

In United States jurisdictions that is usually the route they take. They do not say they are going to deal only with union shops, but that they are going to refuse to give contracts to companies that have a bad labour relations or human rights policy, convictions against them for discrimination against women or minority groups, or pay considerably below the going union rate, whether they are unionized or not. There are some unionized companies that also pay below the union rate.

I just asked, would you consider following the lead that has been taken in other jurisdictions in this regard?

Hon. Mr. McCague: We could consider it. I am reluctant to give you any specific answer without consulting with the Minister of Labour. The minimum wage law governs our policies and those of this government. Do you have any specific instances to which you were referring?

Mr. Philip: No. I can get you examples of legislation elsewhere. I do not have the research capabilities to find out which company you are buying widgets from and whether they are paying \$5 an hour when the going rate is \$7 an hour.

It is fairly straightforward and it is simple to put it into legislation or into policy. Other jurisdictions have done that, and those companies learn that, if they are going to get government contracts, they have to behave themselves. It has worked elsewhere and I am just suggesting that you should look at that policy.

You have indicated you are prepared to talk to the Minister of Labour about it. I hope that you will get back to us on it.

Hon. Mr. McCague: We do not have any policy, either on contract compliance—was that your question? Affirmative action, I guess, was your question. I do not believe we have any rules on that at the present time.

Mr. Carman might want to expound a little bit on the accountability study which is now in progress and to which we referred, but you asked the specific question about the advisory group.

Mr. Sargent: You are a very patient chairman. We have been here now for almost three hours and all we have heard are questions from one critic and remarks of the minister. If we only get five hours, I think you should not be so damned patient, and give these people a time slot to talk, and—

Mr. Chairman: The usual procedure, Mr. Sargent, as you are well aware, is that the critics ask their questions, the minister has a chance to reply, and then we usually split up the rest of the time to the rest of the votes. We are on main office and that covers a variety of topics.

The problem is that Mr. MacQuarrie has some questions and I know you came—

Mr. Sargent: I am not being critical. I think that-

Mr. Chairman: I know. You came in this morning, but our problem is, as you are well aware, that the critics were on for about an hour and 30 minutes between the two of them and, in fairness, the minister should have an opportunity to reply to their concerns, because that is basically what we are here for.

Mr. Elston: Fifteen minutes for the one critic.

Mr. Chairman: Yes, I agree. But I am saying in total it was an hour and 30 minutes for the critics.

Mr. Philip: In other words the Liberals-

Mr. Chairman: I understand what you are saying, Mr. Elston, and I appreciate it. But the problem we are having, Mr. Sargent, is that this is becoming a debate, because as soon as the minister starts talking about affirmative action, we have seven questions. I do not know how you stop it. I have asked them to try to keep it short, but—

Mr. Sargent: It is an observation.

Mr. Chairman: Thank you very much. Minister, would you continue, please?

Hon. Mr. McCague: Based on the accountability study, Mr. Philip, your leader was consulted by the consultants. Mr. Elston's predecessor was consulted, the Provincial Auditor was consulted, and a representative of the internal audit was consulted. Mr. Carman can elaborate a little more.

Mr. Carman: What happened with respect to the ongoing activities of the consultants in touching base with people is they decided to meet between 125 and 150 managers within the government, in addition to the people to whom the minister has already referred. In that group, we specifically ensured that they met with a number of directors of internal audit, and they had very lengthy meetings with them. These meetings went on for an entire morning.

The consultants did have an opportunity to get considerable input from the internal audit community, but not just from them—also from managers of personnel, from finance, directors of line programs. So they got a good sampling of people who are responsible for delivering services to the public, or who are responsible for a variety of support services. I think that added considerably to their understanding of the situation.

Mr. Philip: When did they meet with the Provincial Auditor?

Mr. Carman: I believe they met with him at the same time they had their first meeting with the deputy ministers, which was last spring.

Mr. Philip: Will the Provincial Auditor have an opportunity to review the report before it is published?

Mr. Carman: They are planning on having another meeting with him prior to the time the report is tabled.

12:50 p.m.

Mr. Philip: Then it will be tabled in the House. Will it then be sent to the standing committee on public accounts? What is the procedure?

Hon. Mr. McCague: I do not think there was ever any procedure set up. As I have said on other occasions, I am prepared to table a report at some time, but we did not envisage it going to the standing committee on public accounts.

Mr. Philip: Since much of the concern that stimulated the report came from the standing committee on public accounts and from the Provincial Auditor, one would think that a procedure might be to table it and send it to the Provincial Auditor and to the standing committee on public accounts for examination.

Hon. Mr. McCague: Mr. Chairman, my recollection is that the impetus came from many directions, one of which was the standing committee on public accounts. It could always be referred to the standing committee on public accounts by the House if it was tabled there.

The other question you asked was about the agencies, boards and commissions and the audit function. It was the subject of one of your reports and, I guess, of Mr. Elston at a recent meeting of the standing committee on public accounts.

The Treasurer (Mr. Grossman) has taken the responsibility for consideration of the Audit Act as it applies to ABCs. I think you will be hearing from him when his work is completed on that.

Mr. Elston: In his current role, or in his-

Mr. Chairman: Reincarnation? We do not know.

Hon. Mr. McCague: I will not speculate on that.

A lot of questions have been asked about telephone calls and the rules as they apply to leadership conventions, elections, and so forth. All parties in this Legislature, in the not-toorecent past, have had leadership races. I do not recall this kind of question being asked of the other two parties by the government. I understand all of that.

Mr. Philip: We do not have the opportunities that your people have.

Hon. Mr. McCague: You always say that. However, I do not have any team out monitoring the four delegates to the convention. I do know they are not using government aircraft and I see them with different drivers now than they had before.

So, we are doing the same as we did when you had your leadership convention and Mr. Elston and his party had theirs. There is the matter of good judgement that always has to be used. We trust all members of the Legislature, not only our side, will use it.

Mr. Philip: Surely, unless you have some reasonable guidelines, you are faced with the constant possibility of people—

Hon. Mr. McCague: In the House.

Mr. Philip: —in the House raising what amounts to trivia with respect to expenses while, at the same time, you have massive expenditures that go unnoticed. I really think you have to come to grips with that.

Maybe making a phone call or two out of an office may be the thing that is raised when something more significant, such as a major travel budget, is the item which really should be looked at. I really think that you are burying you head in the sand if you do not come to grips with the problem and be more specific about what is allowed and what is not allowed.

Hon. Mr. McCague: Regardless of whether my head is in the sand or not, I thought we came here to discuss the estimates of Management Board and not the political activity about to happen on January 26.

Mr. Philip: No, we are not talking specifically about that political activity; we are talking about your role as the minister for monitoring expenses and for setting down rules, and whether or not you are following your responsibility in this regard.

That is what is under question, not whether or not Mr. Miller happened, as he did, to spend considerably less in travel expenses than did Mr. Timbrell.

Hon. Mr. McCague: The answers for which you can get from the-

Mr. Philip: There seems to be an inverse relationship with respect to the number of votes you get at the leadership convention to travel, if one goes by Mr. Timbrell's—

Mr. Sargent: What the hell has that got to do with this committee?

Mr. Chairman: I agree with you, Mr. Sargent, and I know you have a question or two. Minister, so if you will continue for a few more moments, we will conclude this session.

Mr. Philip: I will not make any more unimportant interruptions.

Mr. Carman: Mr. Chairman, there are two other questions which Mr. Philip raised. I will answer them while you are perusing your notes. The first is on the use of the Ombudsman in training.

All I can say on that score is, although we have not done it formally, at the time I was Deputy Minister of Community and Social Services we had a very severe problem with the Ombudsman's office with respect to the handling of general welfare assistance and the family benefits case load. At that time, the woman who was in charge of the Ombudsman's office met with myself and my staff to work on what you call the systemic problem.

The result of all that was a vast improvement, both in their work load and our capacity to cope with the problem. Therefore, I have to agree with you; it really pays off to use those people and, again, to deal with ways in which the public can be better served.

Another issue you raised was about motivation to achieve management excellence, and you referred to merit pay. Although I do not want to get into the results of the consultant's study, I think it is fair to say that staff in both the commission and the Management Board secretariat who are concerned with this issue feel strongly that questions of motivation deal primarily with nonmonetary matters. The environment in the organization in which the person works, the congruence of the organizational and the individual's goals, afford an opportunity to understand what is expected of him and the usual praise that goes along with a job well done.

Without getting into a discussion of merit pay, I think you will find we agree very strongly on the nonmonetary side.

Mr. Chairman: Thank you, Mr. Carman. I think this would be a good opportunity to adjourn. We will meet again after routine proceedings tomorrow.

The committee adjourned at 12:58 p.m.

CONTENTS

Wednesday, November 28, 1984

Death of member for Riverdale: Mr. Philip	J-523
Mr. Mitchell	J-523
Mr. Elston	J-523
Mr. McCague	J-524
Opening statements: Mr. McCague	
Mr. Elston	J-528
Mr. Philip	J-530
Adjournment	

SPEAKERS IN THIS ISSUE

Elston, M. J. (Huron-Bruce L)

Kolyn, A.; Chairman (Lakeshore PC)

McCague, Hon. G. R., Chairman, Management Board of Cabinet (Dufferin-Simcoe PC)

Mitchell, R. C. (Carleton PC)

Philip, E. T. (Etobicoke NDP)

Sargent, E. C. (Grey-Bruce L)

Williams, J. R. (Oriole PC)

From the Management Board of Cabinet:

Carman, R. D., Secretary of the Management Board

McLellan, E., Chairman, Civil Service Commission

Scott, J. R., Assistant Deputy Minister, Staff Relations Division

Storey, J. W., Assistant Deputy Minister, Human Resources Division









No. J-26

Hansard Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Administration of Justice Estimates, Management Board of Cabinet

Fourth Session, 32nd Parliament Friday, November 30, 1984

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC



CONTENTS

Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 30, 1984

The committee met at 11:30 a.m. in room 151.

ESTIMATES, MANAGEMENT BOARD OF CABINET (concluded)

Mr. Chairman: Good morning, ladies and gentlemen. I see a quorum. Mr. Philip has indicated that possibly we could start without him. He will be along shortly, but in the meantime, minister, you could answer some of Mr. Elston's questions. With that we will turn the floor over to you, sir.

Hon. Mr. McCague: Mr. Chairman-

Mr. Chairman: Excuse me, the clerk informs me that I neglected to mention we are still on vote 501, item 1, main office.

On vote 501, ministry administration program; item 1, main office:

Hon. Mr. McCague: I am certainly pleased to know that.

I will give Mr. Elston the excerpts from the act which set out the powers and duties of the Management Board of Cabinet. I would just elaborate to this extent: in essence Management Board determines the policies, guidelines and processes which provide a corporate framework for the conduct of government affairs. The board is accountable for the quality and scope of these policies.

It is the responsibility of the deputy minister of each ministry to ensure that all actions are in compliance with the policies of the board. Specific exemptions to the policies may be granted by the board where circumstances warrant special consideration.

I am not sure what the member meant by, "What is the policy on severance payments for management?" I think that was your question?

Mr. Elston: Yes, it was mine. Considering the particular area in which we saw, for instance, the retirement of the president of the Innovation Development for Employment Advancement Corp. He received a \$112,000 payment as part of the severance package. I am wondering if you had any input with respect to developing programs or determinations as to how government is to approach those financial packages when someone ends his tenure with government ministries or crown corporations.

Hon. Mr. McCague: In that particular case we, as the Management Board, were not involved. But I will give you an answer to your question. Provisions have been in place for many years to cover normal severance situations such as resignation, retirement, etc.

These arrangements are spelled out in the regulations under the Public Service Act. However, the regulations did not cover the special situations which arise when the job of a management employee disappears, or where there are reasons why the management employee can no longer cope with the changing requirements of the job. Private employers have employed special severance arrangements in such situations. It became apparent that the government should establish comparable policies.

In October 1982 cabinet approved a policy which would assist redundant managers to bridge the period between leaving the Ontario public service and obtaining employment elsewhere, or in bridging the period between redundancy and the time when a pension is payable, if they are within five years of qualifying for an unreduced pension. The employer may provide a special termination payment based on one month's salary for each year, to a maximum of 24 months.

Mr. Elston: That is if a position is declared redundant?

Hon. Mr. McCague: Yes. We went through a program review exercise where certain programs became redundant. The main one would be the chest clinic we had. There were probably seven doctors who had devoted their lives to the work of the chest clinic and who were not really qualified to hold another position without a lot of upgrading.

Mr. Elston: Would all of them have received the maximum 24 months' pay, or is there a scale depending on their service?

Mr. Scott: I think only one of those doctors was entitled to the maximum.

Mr. Elston: And they were employed exclusively with the chest clinic.

Hon. Mr. McCague: Right.

Mr. Elston: May I ask another question along the same lines?

I understand that some ministers, rather than having people in their offices who are employees

of the government, opt to have people on contract. In those circumstances, is there any role to be played by Management Board guidelines as to the terms of the contract that deal with severance pay?

One minister in particular has indicated that his staff are on contract, and if he goes, they go. Have you any role to play with respect to that

type of employment arrangement?

Hon. Mr. McCague: I will start off the answer to the question.

In about 99 per cent of the cases, the employees of a minister's office are contract staff. The only case I am aware of at the moment that is different is that of the Minister of Transportation and Communications (Mr. Snow), who uses a system of one contract executive assistant and one whom he takes from the ministry on a sort of rotational basis, having him or her as an employee of the minister's office. In that case, the person would be a civil servant.

I am not sure who would want to answer the question of severance for contract employees.

Mr. Elston: I am worried about the mass exodus that may occur towards the end of January.

Hon. Mr. McCague: That is not the date you are particularly zeroing in on, because it is not going to happen at that time. You are thinking about something a little later than that, I think, which will never happen. We will get an answer to your hypothetical question.

Mr. Elston: There may be three retirements at the end of January. I do not know.

Hon. Mr. McCague: The retirements seem to come from your party. Mrs. McLellan will answer the question.

Mrs. McLellan: For contract employees, the terms and conditions of work, pay and so on are set out in the contract itself. Unless severance was included, it would not be available to them. Severance pay is available for civil servants who are governed by the Public Service Act.

Mr. Elston: You do not speak at all, then, to the issue of how those contracts are put together. Even we have guidelines, as individual members, as to the types of contracts we can enter into, and the types of benefits we can provide for the people in our constituency offices, for instance. Those are certainly given to us as individual members. Each of us has to comply with the constituency office requirements.

I find that surprising, since individual members have to comply at that level of employment—surely, when you are dealing with the contracts

of people who are getting substantially more, I would guess, than constituency assistants do, you must have some way of setting up guidelines for those contracts.

Hon. Mr. McCague: It is wrong for you to assume that people working for me at the secretarial level, for instance, are getting more than your secretary is; I think it is the reverse. There is a standard form. The problem is we do not have the form here and we do not have—perhaps someone here will answer it, unless someone at the back wants to put their hand up.

Mr. Elston: Volunteers?

11:40 a.m.

Hon. Mr. McCague: We can get that for you, because there is a standard form. As Mrs. McLellan has said, unless there is something special written in which I am not aware of, it is just a normal severance. Mr. Scott, do you have any idea what it is for ministry staff?

Mr. Scott: There are no severance arrangements as there are for civil servants. For example, secretarial staff and someone who would be in the bargaining unit of the Ontario Public Service Employees Union, have severance arrangements of one week's salary per year of service. The contract employees, however, are hired and appointed by each minister. The terms of the contract would depend on what the minister included in that contract.

Hon. Mr. McCague: Thank you. Jim?

Mr. Chairman: Excuse me, would you come to the table and state your name and your position. Thank you.

Mr. Hansen: Jim Hansen, executive secretary, senior appointments. This is not the area I normally deal with, but to the best of my knowledge there are no severance arrangements in any of the contracts for ministers' staff. They are all drawn up in the same format and under the same rules that apply to all contract staff hired anywhere in government.

Mr. Chairman: Thank you, sir.

Hon. Mr. McCague: Mr. Elston, those are the points you raised to which we did not have a response, unless you can think of another one.

Mr. Elston: Another issue comes to mind after a discussion of the legitimate interests of women yesterday. The other phrase you mentioned was the legitimate interests of youth in Ontario. I would like to get your impression of what those legitimate interests are as well, and how you deal with them inside the ministry, starting with hiring practice.

Hon. Mr. McCague: Our function is not in the area of programs but in the area of finance. You are talking about programs that might be mentioned by the Minister responsible for Women's Issues (Mr. Welch) or by the Treasurer (Mr. Grossman) in the case of youth employment, or probably the Provincial Secretary for Social Development (Mr. Dean).

The area we would have been zeroing in on-other than to reiterate that "legitimate" is probably a word that has many interpretations; I cannot think of the right word at the moment—would be to make sure those areas were funded in whatever way the various ministries might want to have them funded and to proceed with the

program.

Mr. Elston: Basically, I gathered from those introductory remarks that if there was a feeling inside Management Board of Cabinet there was something more to be done for women or for youth, you had an opportunity of discussing, on some level of policy consideration, the types of requests that are being made from various ministries, or you would be prepared to develop programs which would provide the flexibility to include additional young people or women in government hiring practices.

It was more along those lines that I was interested in your comment that you were dealing with those needs in terms of an employment policy—that you have really set down the ground rules from the point of view of employment.

Mrs. McLellan: Unquestionably we all agree with the intended results of the focus on hiring more young people and providing more opportunities for women. It has been a little more difficult to bring in more young people on a regular basis because of the lack of openings and opportunities. However, it is a wish of ours that we would try, as much as possible, to bring more young people into service, especially from the universities. We have had some plans and thoughts along those lines.

You are probably very much aware that through the Experience program during the summer months—and now we have a winter Experience program—the government has provided job opportunities for 10,000 to 12,000 t

young people.

Mr. Elston: But those programs are things that are developed in another ministry—the Provincial Secretariat for Social Development or the Provincial Secretariat for Resources Development.

Mrs. McLellan: That is right. They are in almost every ministry. Nevertheless, the funding for those is received from Management Board.

Mr. Elston: Sure. I was also wondering, are you providing some degree of flexibility in setting out your qualifications so you might be able to help younger applicants, who may not have the same degree of experience, apply for jobs?

Mrs. McLellan: If the job is open to the public, it certainly is not restricted to anyone; we do have age discrimination laws, and while one might wish to do those things, one really has to accept everyone on a first-come, first-served basis.

Mr. Elston: This may be unfair—it is something that has just occurred to me—but what percentage of government openings is unrestricted? When I go through Topical, I very seldom see anything advertised that is open to the public.

Hon. Mr. McCague: That was true for a period of almost two years. One of the reasons for that was that we wanted to give opportunities to those people who were surplus to the service. Many of these resulted from the move of the Ministry of Revenue to Oshawa and of the Ontario health insurance plan to Kingston. It was for one reason or another; for example, a spouse had a job in Toronto and probably could not find one in either of those two locations.

As we discussed the other day, I think you would have to agree we have a tremendous record of placing people in other jobs within the Ontario public service. We had to do that. It was also part of our constraint exercise.

I think it was about September when it was opened up, and you will see, if you check your last four or five copies of Topical, that there are quite a few open competitions. I was going to say quite a few more, but there were none before. Now there are quite a few of them.

Mrs. McLellan: If I could just add to this, the minister is quite right. In September, we changed the restrictions on open competitions, meaning open to the public, everyone. We saw with experience that this was the right time to do it and a considerable number of positions are now open to the public.

The purpose was to manage the downsizing and place surplus and relocated staff who had to be accommodated in the previous two years.

Just as an example, we had requests in the month of August to advertise in Topical for 211 open competitions, and 197 were approved for that kind of advertising, as compared with the beginning of the year when it was about 80. There has been quite a noticeable increase.

Hon. Mr. McCague: Mr. Philip had several questions the other day that I do not think we

completed. I did say to him at the end of the session, with regard to his question about members participating in the government training programs, that I noticed he was one of the people who was not participating so much as being one of the resource people. We use many resource people from all the parties.

I guess the only program where we really have members participating is in the French-language training area, and, as all members know, that is available to you on whatever basis you decide to go.

Mr. Philip: You are not prepared to give us Italian-language training?

Hon. Mr. McCague: I am prepared to take it under consideration.

Mr. Philip: I do not think our clerk needs it— Hon. Mr. McCague: But he is prepared to tutor you.

11:50 a.m.

Mr. Philip: -but he might come on as an instructor or something.

It would be useful in some of our ridings, and Italian may not be the only language. It is extremely expensive to go to one of these language schools and, while I can function in French, I have managed to use French exactly three times since being elected. Italian would be extremely useful in my riding. In some others perhaps Ukrainian or Portuguese or some other language would be.

Hon. Mr. McCague: It is probably a program that should be discussed more appropriately with the Legislative Assembly rather than the civil service.

Mr. Philip: I agree. It is just that there was a civil service program to help people in front-line jobs to deal with certain new Canadian groups. Perhaps MPPs could receive similar training.

Hon. Mr. McCague: Yes. I think we are talking about MPPs because within the civil service, if it was essential to speak Italian, someone would be hired who could do so, to be able to talk to the people involved.

You had another question about the number of employees declared redundant because of technological change; how many were replaced and downgraded, or unemployed, and for how long.

That is a very difficult question to answer definitively. During 1983-84, 522 were declared redundant. There were 68 in the bargaining unit and 24 in management reassigned, for a total of 92, which is 18 per cent. These people received salary protection.

We do not have any real method of determining how many of the released employees are unemployed at present. However, of the 141 employees released in 1983-84, 107 came from Bluewater Centre. There are 34 former employees, then, who would have been relocated and surveyed to determine the current status.

You also asked about the amount spent on staff development in the Ontario public service. The only thing we can do is give you figures for ourselves and the ministry's carry-on programs. I mentioned the figure in 1981-82 of about \$6 million, in 1982-83 of about \$6.1 million, and we now have one for 1983-84, which is \$8.2 million. You can see we are giving that matter a good deal of attention.

You raised the issue of how we determine our regular part-time employees, and whether there is an abuse of that. I cannot argue there might not be the odd one somewhere in the whole system, but the kinds of people you are talking about are: cooks and food service people in institutions, who are required for a few hours a day to prepare and serve meals; probation officers and aftercare workers in a region where the work load does not require full-time employment; and of course there are quite a few in the court clerks and court reporters area.

You raised an interesting question about the strategy regarding privacy. As I recall, that arose from my saying that we had Mr. Phil Lind of Canadian Cablesystems on our advisory committee, and how a person could use all of that to find out too much about you and me.

Mr. Philip: I was not suggesting that Phil Lind was. I have known him for many years, and of all the people in that business, I know no one who has done as much for the community and run as reputable an operation. It is a problem in that business, and it has been raised by a number of communications writers.

Hon. Mr. McCague: As you know, we at Management Board have not been involved in that area of privacy, but we have been involved as it applies to the computers within government. I do not know whether you want me to elaborate on that, or whether you would like to ask Mr. Sterling a question in the future.

Mr. Philip: One of the things that is an increasing concern is the use of computers in government. With the interconnection between government computers and private enterprise computers for various reasons, the concern is the guarantee of privacy and which records can escape, if you want, or be plugged into.

A few years ago, after first proclaiming there was no problem, the Minister of Transportation and Communications later, under pressure, did bring in legislation saying the government would be held responsible in the case of the leaking of certain types of records.

First, what kinds of records would you have that you might be cautious with, in regard to the privacy of individuals?

Hon. Mr. McCague: At Management Board, we would have none. In the Civil Service Commission, we would have the employment files of some people, especially of senior executives. With the CRISP, correctional rehabilitation involving student participation program, I guess we will have a profile on everybody, as far as employment is concerned.

Mr. Philip: So you would have some hearsay evidence in those files?

Hon. Mr. McCague: If I could ask Dave McGeown to come to the microphone, he might elaborate on this a litte.

Mr. Chairman: Mr. McGeown, please state your name and position.

Mr. McGeown: Dave McGeown, executive co-ordinator, information technology division of Management Board secretariat.

As far as Management Board is concerned, I think the only files that contain personal information are files related to employees within the government. Most of that information is available through various other sources. In terms of—

Mr. Philip: Available to whom?

Mr. McGeown: For example, executives' salaries over a certain rate are available through public accounts.

Mr. Philip: Let me give you an example. Supposing, as a manager, I note, in my file on employee X, that his behaviour tends to fluctuate and I suspect, since his behaviour seems worse on Monday mornings, employee X may have an alcohol problem. Would that go into your computer system? Is that part of the record?

Mr. McGeown: The computer system currently does not contain any information of that nature. It is basically the salary rate, the number of days worked and the position. It is very factual, straightforward information. There is no subjective information on it.

Mr. Philip: It would not contain such information as "denied promotion on grounds of personality conflict" or—

Mr. McGeown: That is correct.

Mr. Philip: Thank you.

Hon. Mr. McCague: Another part of your question related to what we were doing about the privacy of our own computer systems, if it is available to other companies, and if we are interrelated to people. Is that correct?

Mr. Philip: Yes.

Hon. Mr. McCague: Then, Dave, that is really your area.

Mr. McGeown: To my knowledge, there is no sharing of government information between private companies and the government.

Mr. Philip: There are no lists that would be sold?

Mr. McGeown: I know of no lists at the moment. I think you would probably have to ask individual ministries. The data is actually owned by the ministry. It is the ministry's responsibility to ensure the data is kept in a secure form.

Mr. Philip: Is the Ministry of Transportation and Communications not selling this at the moment?

12 noon

Mr. McGeown: I am sorry. I could not answer that, sir.

Mr. Philip: You would have no control over that?

Mr. McGeown: That is correct.

Mr. Philip: There is no connection between your computers and any private enterprise computers—Bell's, or anybody else's?

Mr. McGeown: That is correct. As a point of clarification, we access some external data bases, such as the Cansim data base, which has data on what the market prices are for various commodities and things of that nature, but the information does not flow the other way.

Perhaps the only government file from which some information is available is the motor vehicles file itself, which is hooked into the Canadian police information system. This is so that when someone is apprehended, they can radio through the licence number and determine if the car is stolen, or if there is a previous crime associated with the vehicle, that kind of thing.

Mr. Chairman: Would the minister please continue?

Mr. Elston: Mr. Chairman, I do not want to go on too long on this, but since we are talking about computers, I had an interesting question raised with me.

Has there been a trend seen in Management Board over the years as to how much the staff has been reduced by the introduction of computers? What is happening there?

If you like, you could answer it at a later time or whatever, but the computer discussion brings me to that.

Hon. Mr. McCague: Again, Mr. McGeown could come forward and answer that. We have had several discussions in that general area. What we are trying to do—and, I know, successfully—is to retrain these people to operate in other areas, or to upgrade them to the new technology. Mr. McGeown, you might elaborate.

Mr. McGeown: Could you repeat the question? It is difficult to hear at the back.

Mr. Elston: Yes. It is the question of the impact of computerization—what the trend has been, the number of staff members who may have been replaced over a short time period, how you deal with those staff replacements, and what your success rate has been, particularly if they are at a more senior level in years of employment.

Mr. McGeown: In general, ministries that have used computers in the wide application of systems have done so to basically increase the productivity of their organization. Most of these systems are resulting in what we call on-line systems, where people are actually interacting with the computer, getting information from it, and doing their job in a more efficient and effective manner.

To my knowledge, in all cases, people have been retrained to handle the new technology. If the technology is properly introduced, this is usually not a significant problem. Of course, there may be some people who cannot be retrained for some reason, but to date this has not been a major problem.

Mr. Elston: You have not really seen an impact in reduction of staff requirements-redundancy would be the correct word—as a result of computer introduction?

Mr. McGeown: The kind of thing that normally happens is that the introduction of an on-line system or a computer system will make the staff more productive. They are able to do more work. Generally, because of years of constraint, they find that they need those people. They are reapplying them to the same area.

Mr. Elston: So you will end up having the same number of people plus the computer operation involved, but you still feel that it would be an increase in productivity. There would be more work done more quickly by the same number of people as there would have been—

Mr. McGeown: I do not think there is a general rule, but I could give you an example. Standard assessment is about to design and implement a new computer system which will make the assessors more efficient and more effective. This will allow us to do standard assessment up to the level at which it was supposed to have been done over the years. Standard assessment has always been behind with respect to being able to complete the entire program.

Market value assessment is an example of the kind of new pressure they have to deal with. The system actually allows them to deal with market value assessment and to do the additional work associated with it using about the same number of people. What happens is there is a reallocation of work and a redistribution. I am sure there are times when there are fewer people and there are

times when there are more.

Mr. Elston: That is the sense I get as a lay person looking at the computer proliferation in the work place. I have the sense that when the computers come in, inevitably the number of people required is going to be reduced. It is from that standpoint I ask the question. What you seem to be telling me today is that this, in fact, is not happening in government circles.

Hon. Mr. McCague: What you have to realize is over and above the fact that technology does replace people, we have redundancy of at least five per cent a year through retirements, people who quit or people who go on the long-term income protection plan.

Mr. Elston: You do not mean redundancy; you mean attrition.

Hon. Mr. McCague: I mean attrition, yes. You have five per cent, so that is 4,000 people a year, which allows you to do quite a few things. Using the 4,000 figure as an example, if you have 1,000 people displaced by technology, you only hire 3,000.

For instance, in the Ministry of Transportation and Communications, when the move was made to Kingston–I think it was Kingston; that is where we moved the people–there were 73 data processor operators who were declared redundant. We were able to relocate all but 12 of those. Those 12 operators became somewhat of an issue and there were some restrictions on their ability to be reassigned. However, the Civil Service Commission did work very diligently with those people and as a result six of those people are now back in classified positions, four are in unclassified positions and two have gone to the private sector.

It is a remarkable record, one in which we take a lot of pride and at which we worked hard. That was done through a series of retraining sessions which, again, is in the \$8-million plus figure I gave you for programs of upgrading and realigning for further employment.

Mr. Chairman: Before we go on, a thought just struck me. I think you would be the proper one to answer it for me anyway, Mr. McGeown. Has the new technology over the years been able to give better service to the citizens of Ontario in terms of response, etc?

Mr. McGeown: It is difficult to give a general answer to that kind of question. You would have to look at specific areas where computers have been brought into effect and whether or not that

program has improved.

Each time we examine a computer application before Management Board, we look very carefully at the benefits. We look at those benefits in terms of the delivery of the program to the public. It is one of the key criteria we use to judge whether or not we should invest in that particular computerized system.

12:10 p.m.

Mr. Elston: Mr. Chairman, in relation to your question, a good example of that productivity would be reflected in the initial year of the efforts of the Minister of Revenue (Mr. Gregory) to send out property tax rebates to the seniors. I noticed a tremendous amount of legwork being done by me and my staff in trying to get things sorted out. I would presume that there would be very low productivity with respect to a program such as that. I think it has improved, without question.

How would you assess the introduction of these new programs? What are the real problems with introducing a program such as that? Did you learn anything through the experience with the Minister of Revenue, and that program?

Mr. McGeown: I was not involved in that program with the ministry.

Mr. Elston: Was anything learned about that? There must have been some little memo floating somewhere throughout the organization saying, "Something went wrong here." I cannot imagine the time spent in doing a lot of manual stuff not generating some kinds of memos which must have come to your attention.

Mr. McGeown: I do not know.

Hon. Mr. McCague: Mr. Elston is not really complaining because, had it not been for a few bugs in the system, there are many people in his riding he would never have met.

There were bugs in the system. Are there not always bugs in the system-in any system? You might comment on that, Mr. McGeown.

Mr. McGeown: It is particularly difficult to develop and implement a system when you have very tight deadlines. Yes, it would be very unusual to have a system that had absolutely no errors in it.

Mr. Philip: Would you not agree that the whole thing is simply a Progressive Conservative

Party plot?

You have to work out the numbers, you see. Every time I get a call, and I find someone's cheque, it is worth a vote. I assume that the Conservative members get as many calls as I do. I have gained at least 500 new votes as a result of finding people's cheques, but there are more Conservative members of the Legislature than there are New Democratic Party members. Therefore, one would have to assume that the overall result of all this is considerably more votes for the Conservatives than for the New Democratic Party.

Mr. Chairman: Mr. Elston, both Mr. Philip and I had detailed discussions on this program and computer technology in the standing committee on public accounts, and I think we would not have time to really go into it, so if we might—thank you, Mr. McGeown. Minister, would you please continue?

Hon. Mr. McCague: I can only comment that everything is relevant.

Among various things, the member for Etobicoke (Mr. Philip) asked about the purchasing policy to encourage economic development. Really, he was zeroing in on our purchasing policy.

Granted, we give a 10 per cent Canadian preference, but we do run into situations in competitive bidding where, first, the item under consideration, whatever it is, is not available in Canada, or we get a price from an offshore company which is very definitely preferential to the one we have here, taking into consideration all the other factors. Those are considered very carefully by Management Board when the purchase comes to our attention.

Of course, we involve the Ministry of Industry and Trade each time, to monitor not only the Canadian content but to allow them the opportunity to assess whether there is an opportunity for the manufacture of that product in Canada. Of course, you know they work quite hard at that. If there is a market, they want it done here and not offshore.

You asked about the controls on advertising spending. We consider the estimates of each ministry each year. We get from them their estimates of what they need to spend on advertising. It is an easy area to criticize. The opposition is always balancing what is political advertising against what is essential. I have heard criticism for not telling people about a program and I have heard others who say it is done purely for political purposes.

However, when a ministry comes forward to us with a sum of money in its budget, we certainly question them as to what program they intend to operate. Then, of course, we get in-year requests for increases, based on several things. You are liable to get a new program. We get several of those. There might be requests for increased emphasis on various government policies, such as drinking and driving at this time

of year.

We get requests such as the "Ontario, yours to discover!" supplement in the papers here. That ran once a year. I remember one request that came in because they wanted to do it in winter also, because of demands from the winter sports operators. We also get some related to the desire to advertise in the bordering US states. So we get in-year requests to increase the budgets and we have to take those into consideration.

Mr. Philip: I think one thing that bothers both opposition parties, though, is that for any other program the Provincial Auditor can usually go in and identify objectives and what kinds of devices are in place in that system to find out whether those measure up. The programs constantly violating that are government advertising programs.

I have no objection to advertisements that perhaps promote health or tourism. However, when I see the "Preserve it, conserve it" ads, I ask can you really tell us—without a smile on your face—that there were clearly defined objectives we or the Provincial Auditor could sit down and understand, and clearly defined measuring devices to see whether they were being met?

Hon. Mr. McCague: We could get into a large, philosophical argument about whether the objective—If it had not had "conserve" there, you would have been happy. You have no objection, I presume, to the idea that we should preserve things so we can conserve them for future generations. But you are a little concerned about the word "conserve."

Mr. Philip: It is not just that. The word "conserve" was a fairly cute and not terribly subtle advertising technique for purposes which

are fairly obvious also. However, there were no objectives clearly in place for that whole program. If there were, show them to us. Table them.

Hon. Mr. McCague: I would ask you to ask the minister responsible, the Honourable Mr. Pope, to do just that.

Mr. Philip: We have. We do not get answers. You are the Chairman of the Management Board of Cabinet. You pass these things.

Hon. Mr. McCague: I am sorry he will not co-operate. However, you started off by saying the auditor does not look at these things, for some reason.

Mr. Philip: Oh, he has. He has criticized them.

Mr. Elston: The auditor cannot get the clear statement of objectives of the program. I think that is the problem.

Mr. Chairman: If you relate it to energy, "Preserve it, conserve it" would be a natural flow-through. How else would you interpret it?

Hon. Mr. McCague: It says it all by itself. The word "conserve" was what bothered everybody. If we had said, "Preserve it, keep it," no one would have raised the issue.

12:20 p.m.

Mr. Philip: I doubt that very much. I think the Provincial Auditor and the opposition would have raised the issue. That was not the only advertising program we have asked about. There is a constant pattern of no clearly defined objectives which none of those ministries will table, either for the Provinical Auditor or the Legislature.

I suggest when that happens the objectives either are unknown or they are hidden, for some reason or other. I think if you look at them, it is fairly obvious they are hidden. The reasons are quite clear.

Hon. Mr. McCague: I think we are into disagreement.

Mr. Chairman: We agree to disagree on that one, Minister. You have made your point.

Hon. Mr. McCague: Would you take as a short answer to the "Ontario, yours to discover!" campaign the fact that it increases tourism and financial benefits in Ontario? Would you accept that as the reason for that program?

Mr. Philip: What I would accept would be: Who the target group is. What is the amount to be expended? How are they going to measure whether the target group was reached? How are

they going to measure the financial payoffs, like the increase in tourism and so forth?

Now, either you have that kind of thing in place or you are not running a very businesslike government. I could take you into any corporation—or even into any political party—and ask for their advertising budget and their objectives. They will sit down with you—the political parties will not, obviously, unless it is historical—and show you what it was they attempted to achieve, who they were trying to reach, and whether the program was a success or a failure or to what degree it was successful.

Over and over again, with your advertising program, you are not able to do that. Surely, as Chairman of Management Board you can ask each of the ministries to provide the Provincial Auditor with clearly defined objectives for their advertising programs and provide the measuring instruments by which they evaluate these pro-

grams.

Hon. Mr. McCague: There is an answer to your question. My answer—although I am not the Minister of Energy (Mr. Andrewes) and you can get your answer from him—is that we in government for the past 10 years have been practising a program which has had tremendous results. We have attempted to convey that message to the public. I think that is a worthy objective.

There are other reasons, that I have alluded to, why the program was not liked and was zeroed in

on from day one.

I do not disagree with your point that there should be clearly defined objectives. I was not aware of the fact that you could not get the reasons for the program from the Ministry of Energy. All I can say to you is that the members of the board and I were satisfied with the advertising budget of the ministry, which they chose to use as they pleased, and that is defined.

Mr. Philip: Surely, one way of handling this would be to have a tripartisan committee chaired by you—and with some representation, perhaps, from some auditing function such as the Provincial Auditor—that would sit down and examine ads and decide, not whether the objectives are right or wrong, but whether there are objectives and whether or not those objectives are clearly stated and are being met. That would at least keep a certain amount of honesty in it. If the objectives are clearly political, then at least they would have to be stated and then we could deal with that.

Mr. Mitchell: Mr. Philip, excuse me-

Mr. Chairman: Gentlemen, we have had little debate ongoing. You are trying to convince

the minister and he has given you the answer. Now we are going back and forth. I get the feeling you have agreed to disagree on this one. I think you have made your points on both sides.

I think, Minister, in fairness, if we are going to get responses to Mr. Philip's further question we should move on. I think Mr. Elston and Mr. MacQuarrie have also been waiting very patiently to ask you a few questions, so please let us continue.

Hon. Mr. McCague: Thank you, Mr. Chairman. A question was asked about speechwriting policy. The policy on creative communications services does not specifically cover speechwriting for ministers, but it does cover writing for purposes of public relations activities. Under the policy all contracts in excess of \$15,000 must be tendered. However, small individual projects costing less than \$15,000, which are of a nonrecurring nature, can be awarded without tender. Individual contracts and separate items of reference are required for each occurrence.

Mr. Philip also raised the issue of the telecommunications project of the Ontario Provincial Police. In 1979, Management Board approved the project at a cost of \$24.4 million. In late 1982 the ministry approached Management Board for additional funding and it became clear the original estimate was considerably short of the actual amount required for the system expected by the OPP.

The escalation in the project cost was due partly to inflation, to project design changes necessitated by advanced technology, and increases in the number of radio tower sites required. Another OPP district was added in Sudbury and this required more communications

facilities than originally planned.

The examination of the project in 1982 by the telecommunications review committee resulted in an estimated revised project cost in the range of \$66 million to \$71 million, the figure you mentioned the other day. However, this figure was not intended to be the revised cost of the project. It was provided primarily as an indicator of the potential cost increases and was based on limited available information.

For example, it was recognized that much more work was required to clarify certain major aspects of tower distribution and design. Possible changes are required by the federal Department of Communications and Canadian Radio-television and Telecommunications Commission regulations.

The ministry is now preparing implementation alternatives for review by Management Board in

June of next year. The report will provide full cost details on design and implementation alternatives. The final cost of the project will not be available until after a thorough review of the implementation alternatives report. There will undoubtedly be some changes to the previously reported estimate of the project's cost.

Since its involvement early in 1983, the Management Board has exercised strict financial control at the commitment level of the project. Approved funding now stands, as I said, at \$31 million.

You asked about a dinner for \$900 a plate or something. I am not sure this press release you kindly sent up is part of it.

Mr. Philip: Yes, that is in the article there.

Hon. Mr. McCague: From what I have been able to determine, a seminar was put on by a private firm to which various people were asked, of course, to subscribe, and various people were invited as speakers. I think you said John Crosbie was the keynote speaker.

Mr. Philip: No, I said Michael Wilson.

Hon. Mr. McCague: Michael Wilson was the keynote speaker. Apparently it was a two-day seminar costing \$900. It really had nothing to do with fund-raising, as I understand it. A two-day seminar—and you are knowledgeable in this particular area—that is not an unusual cost for that kind of thing.

Mr. Philip: Would you provide us with details of who ran the seminar, who attended and an outline of the program?

Mr. Elston: I think it had something to do with how to tape meetings with ministers and dropping off public information to press people, did it not?

Hon. Mr. McCague: Did they not have brown envelopes?

Mr. Elston: I think Michael drops off his own material.

Mr. Chairman: He leaves them on the table.

Hon. Mr. McCague: It was not our program.

Mr. Philip: I recognize that, but the question is fairly straightforward: Who attended; what were the objectives; who ran the program; who are participating in the program as facilitators or as resource people; and what was the cost to the taxpayers? I think that is fairly straightforward information, and I simply ask you to obtain it for us.

Hon. Mr. McCague: It is not our program. We had nothing to do with it.

Mr. Chairman: Mr. Carman, would you like to clarify this?

Mr. Carman: As I understand it, and this is somewhat from hearsay, two private sector firms decided to offer a program on how the new federal government is operating. They invited a whole series of people, both from the private sector and the public sector.

They also invited some public servants to attend as resource people. Those people were not charged anything. They were asked to go, and they gave some input into the process, but it was by public subscription, and the only thing we know is that, probably, some individuals from the Ontario government might have gone. We have no idea who they are.

Mr. Philip: I cannot believe that, in this computer age and with the resources you have at Management Board, you cannot answer four simple questions, which are: Was public money spent to send people to that program? What was the nature of the program? Who attended? What was the cost?

I am asking you to obtain that information. If you are saying that you are refusing to obtain that information from the relevant ministers, then please say that and put it on the record.

Mr. MacQuarrie: You were told it was not their program.

Mr. Philip: Would you please stop interrupting? I am asking a question. If you want to ask a question, you ask a question.

Mr. MacQuarrie: Oh, come off your high horse.

Mr. Chairman: Gentlemen, you have-

Mr. Philip: Whenever it gets embarrassing for the government, you try to cut off the opposition.

Mr. Mitchell: That question was clearly answered, and you blessed well know it.

12:30 p.m.

Mr. Chairman: Ed, you have put the four questions on the record. I think Mr. Carman and Mr. McCague tried to clarify it, and, in fairness, it has nothing to do with their particular ministry or with this government. We were not sponsoring this, so it has nothing to do with us.

Mr. Philip: It is taxpayers' money that is going into it. Therefore, Management Board has everything to do with it. Now, I am sorry that you are intervening in this, trying to protect your colleagues.

Mr. Chairman: I am not protecting anyone.

Mr. Philip: I am asking the minister; will he find out the information that I have requested or will he not?

Hon. Mr. McCague: We could attempt to find out. This is a seminar run by private organizations. It would be very easy if they would tell us if there was anybody from the Ontario government who went and paid \$950.

That would be very easy.

To do a survey of every ministry, of the 80,000 people we have in the employ of this government, to see who went and who did not, or if anyone went, is not a very productive exercise. If the people who did this, Strategic Planning Forum of Canada, will tell us whether or not there was anyone there from the Ontario government, at our expense, that is not so bad. However, if you have to go through every ministry to find out, I would suggest to you that finding out the answer to your question is going to cost a lot more than it would have cost if 10 people went.

Mr. Philip: There are not very many people who would be at a fairly high level in each ministry who would go to something like that. So, it is fairly clear that the deputy minister or the assistant deputy ministers would know who went to that kind of seminar. I do not think it is asking all that much to send a memo to each of the deputy ministers and ask for a list.

Mr. Chairman: Mr. Elston, you had a question?

Mr. Elston: Yes. I think perhaps the specific question is hard to get at, but it does raise the question of what the policy is with respect to having public service people attending seminars, as resource people, anyway, and what the policy is for private companies.

Is there a guideline with respect to the amounts that your government requests in reimbursement for the time of an employee who attends during his working hours—who has to take up some of his public duty time to attend functions like this?

There has to be a cost to the taxpayer to fund that private seminar, whether the participants go free, or if they have to pay to go to it. I think that question is perhaps at a tangent to what Mr. Philip was getting at, and is a very important consideration.

If it is a private seminar at \$950 apiece, for which we as taxpayers provide the resource people, then there has to be some tightening up of that type of program.

Hon. Mr. McCague: I do not want to get into a political battle, but I will just ask you a

question. If your leader is asked—as I know he is on many occasions, as is Mr. Philip's leader—to go to Ottawa or Windsor or wherever to speak at a seminar that is sponsored by a private company, does Mr. Peterson or does Mr. Rae—

Mr. Elston: I am talking about public servants, I am not talking about politicians.

Hon. Mr. McCague: You are talking the same thing.

Mr. Elston: No, I am not.

Hon. Mr. McCague: Our government pays the travel bill in both cases.

Mr. Elston: But there is a fund set up that allows the Leader of the Opposition (Mr. Peterson) and the leader of the third party, and, I am sure, the Premier (Mr. Davis) also, to participate in those programs, and it is paid for. That is somewhat different, I would submit, Mr. McCague, from us, as taxpayers, providing a public servant plus the resources, the background material and data for a privately operated seminar.

I am not getting into a political battle. I just think there must be some kind of— Are you telling me, then, that Murray Elston Consultants Ltd., say, can set up a private seminar in the riding of Huron-Bruce and request and receive free of charge any public servant I can contact and get interested in the seminar, and perhaps make a few dollars for the consultants' business?

That is the type of consideration I would like you to address. If you do not have a policy, perhaps you could think about implementing one. If you have given approval and are telling us that that it is all right, then I think every business in the province should know they can have, for free, for one or two days, for their own benefit, a public servant to provide them with all the information they need to operate this private program.

That is the question. It is not my concern what the Premier of the province does when he is invited to participate in a seminar, or how Mr. Rae gets to a private seminar, or how Mr. Peterson gets to a seminar. It is the public servant. That is the question.

Hon. Mr. McCague: With all due respect, I think they are two different questions.

Mr. Philip: They are, but they are perfectly valid questions.

Hon. Mr. McCague: That is right, and I agree.

Mr. Elston: That is what I said. It is part of the same parcel of questions, the determinations that Mr. Philip was asking you to make. I am asking

you what policy considerations you have behind that.

Mr. Carman: If I may respond to that question. In a situation such as this, if there were a profit motive behind the actual operation of the seminar, then the public servant would not participate at no charge. I am sure in each case the decision is based on whether or not the forum being held is an opportunity to bring people from various walks of life together to learn what is going on in the context of government.

If it is that, the judgement has to be made by the person involved in saying yes or no. I am dealing with this on a hypothetical basis, not in terms of the actual event, because I know nothing

about this particular one.

Hon. Mr. McCague: There are two kinds of seminars. There are seminars put on for profit, by consulting firms and there are conferences or seminars put on by consulting firms on behalf of the government, and they get a fee for that.

Mr. Elston: I realise that, but I am talking about a situation where you end up having public servants going out to something not sponsored by the government. I have no concern about the government using their staff for a government-sponsored program.

The question is where private organizations put on seminars and use public servants for their private purposes. You do not always have to have profit as a motive at the specific event. There are outfalls of having these seminars other than automatic or immediate profit.

Mr. Philip: The spinoff, too, is whether or not that public servant is receiving an honorarium for his services.

Hon. Mr. McCague: I think that is just not approved.

Mr. Philip: That is not allowed? I was not offered one-

Hon. Mr. McCague: The staff have all noted that you are available without charge at any time for seminars, and you are, too, Mr. Elston.

Mr. Elston: As well? I know Mr. Philip is not available for next Tuesday night.

Mr. Philip: That is not my policy.

Mr. Chairman: Could we continue, Minister?

Hon. Mr. McCague: I think that basically answers the questions that were raised.

12:40 p.m.

Mr. Philip: There was one question I raised, concerning a certain public servant, and I asked you to find out about his severance.

Hon. Mr. McCague: We have been unable to find out what you were referring to.

Mr. Philip: I understand it concerned a Mr. Ken Singleton, who was paid a fairly large amount over a two-year period, as part of his severance. I gather he was a senior management official who was terminated.

Hon. Mr. McCague: I can run through that, if I can find it. I did answer that question prior to your coming and I may have attributed the question to Mr. Elston, rather than you. I am sorry.

Mr. Elston: We have both asked about severance, but the particular question on Mr. Singleton was obviously Mr. Philip's.

Hon. Mr. McCague: We cannot find it, but you may recall we went through an exercise in program review, and what we were trying to do was to eliminate some programs. From time to time, we do find the odd one. The one I mentioned before was the chest clinic.

We had a policy in that program review in which, if a person's position became redundant because of the program review, we would allow a severance, based on one month's salary for each year of service, up to two years. So, they could get a two-year settlement. For the first \$50,000, they would have received \$100,000.

Mr. Philip: So you are saying you have no record of a public servant by the name of Singleton who was terminated and given in excess of \$100,000 in lieu of salary.

Hon. Mr. McCague: I think that is correct, but that is not to say it is not possible. In the chest clinic six or seven doctors who had been in the program for a number of years were released. As I understand it, only one of them got the maximum two-year salary. I think the average among the seven who were released was 12 months' salary.

Mr. Philip: If I can get more information, I will have to ask the question of you in the House.

Mr. Chairman: Thank you. I think we should now move to a few of the questions. I notice Mr. MacQuarrie is no longer with us, but Mr. Elston had indicated he has a number of questions for the minister.

Mr. Elston: I have a few questions—

Mr. Chairman: Just before you start, I think Mr. Philip has one more question for the minister, after you.

Mr. Elston: My questions really revolve around some of my opening remarks. At that time I mentioned that Mr. Sargent was quite

heavily interested in the issue of contracts. He has provided me with some information which he has asked me to place on record and speak to the minister about.

Basically, it surrounds the question of untendered contracts and is something that is being proposed now. It is described in Mr. Sargent's notes as a "code of conduct" to describe what is expected of senior managers.

I support the idea that there ought to be a tendering process put in place and followed religiously in order to get the best price for the provision of services, so you cannot direct business willy-nilly to those people who happen to be well known.

There have been many concerns, on a number of occasions, about whether or not we are getting the value for dollar the people of the province are entitled to. In relation to that, Mr. Sargent has given me a number of examples of what he considers to be contracts which were farmed out, some of which have been discussed in the public accounts committee, and some of which have come back to you.

He has provided me with the following list. The first was a series of contracts that were dealt with in public accounts committee for which the then Deputy Minister of Government Services, Alan Gordon, was responsible; the \$81,300 contracts with Allan W. Foster and Associates.

In October 1983, a report by Joan Walters, who was then with Canadian Press, indicated that there was a \$206,000 series of contracts with Matrix Communications. It could easily be, at this point, that Ms. Walters could provide us with more information on contracts, I do not know. It might hurt her position.

Hon. Mr. McCague: She could-

Mr. Elston: It would be unusual to find it, mind you. On February 27, 1984, however, the then Liberal finance critic, Patrick Reid, revealed details of a \$42,600 untendered contract to Decima Research—a situation which, of course, is similar to the Alan Gordon situation in that there were a number of contracts set up under the \$15,000 guideline.

On February 29, 1984, my leader, David Peterson, and Patrick Reid revealed a series of untendered contracts totalling more than \$120,000 awarded by the Ministry of Industry and Tourism to Peter Barnard Associates for advice on how to create a resource machinery development centre in Sudbury. These, I know, are all familiar to you.

On March 1, 1984, David Peterson and Pat Reid again revealed an untendered \$41,708 contract awarded by the Ministry of Tourism and Recreation dealing with the provision of 500,000 bookmarks proclaiming, "Ontario, yours to discover!"

While I am at that stage, it might be interesting to note for my own purposes a very selfish statement: Those "yours to discover" things are a great game because they do not include places worthwhile discovering like Port Elgin and others. The ministry seems to think there is a game in "yours to discover."

Mr. Philip: Great restaurants are never advertised.

Mr. Elston: They do not always come out perfectly, but that is something quite different from this stage of the discussion.

Hon. Mr. McCague: Have a look, Alliston is missing too.

Mr. Elston: Is Alliston missing?

Mr. Philip: Never once was the York Restaurant advertised.

Mr. Elston: In any event, these are a series of the contracts about which we have press clippings here. The indication is that there are more than just a few isolated incidents of nontendering.

I understand the comments you made earlier about deputy ministers being responsible for enforcing and ensuring that their ministries comply rigorously with the guidelines set down by your ministry. It is unfortunate the series of problems outlined now indicate that not all deputy ministers adhere to them as strictly as they ought. Even though you have set down the guidelines, it appears you really are not able to do much with them.

Perhaps you can, behind the scenes, indicate you are going to cut their budgets or something if they do not comply. I do not know what you do. In the public situation, it takes the intervention of someone more powerful than even the minister, in some cases. For example, in the case of Alan Gordon's minister, the Honourable Doug Wiseman, as he was then.

Hon. Mr. McCague: He still is, as someone pointed out to me from across the floor the other day.

Mr. Elston: Is Doug still?

Hon. Mr. McCague: He is still "Honourable."

Mr. Elston: Is Doug still a minister? But he does not have the title "Honourable."

Hon. Mr. McCague: You know that, because I pointed it out to you the other day in the House.

Mr. Chairman: Until he leaves parliament, he retains the title?

12:50 p.m.

Mr. Elston: He retains that, having been a minister? Okay, whether it is a title or a personal attribute, I would agree that he is an honourable individual.

My concern is that if a deputy minister really wants to shield the types of activities he carries on and has that ability at times, as was displayed earlier, how can we believe Management Board is really doing what its mandate is designed to do?

How can we be assured at the public level that those people who transgress the rules and regulations are going to be dealt with unless it comes to the light of the opposition parties, press, or others who are looking at your operation from without? That is really the key to the whole series of questions that Mr. Sargent would probably have put in a much more forceful and more detailed manner.

Hon. Mr. McCague: For sure.

Mr. Elston: You are getting off lightly. The language may not be quite as colourful, either, in the way I display the question. Perhaps he will query you on it at a later time, but you could tell us how you are going to deal with the sanctions—that is really the key—and whether or not you are going to upgrade your ability to invoke sanctions.

Hon. Mr. McCague: A couple of things. I was kidding you a bit about "the then Honourable," because I said the same thing in the House last week in answer to the question of someone in the New Democratic Party, and he asked, "Does that mean he is not honourable?" I pointed out to him that you lose that title in Ontario when you are no longer a minister.

However, it has been made very clear that the accountability has to rest with the person who appoints ministers or deputy ministers. I think you understand who that is.

Mr. Elston: The Premier.

Hon. Mr. McCague: Following that, we have a Manual of Adminstration, which we discussed the other day, which it is the duty of the deputy ministers to follow. It is conceivable that if you have 80,000 civil servants, there are going to be some mistakes.

I said to the press one day, when all this controversy was on, "Everyone would like a purer system, but if the Provincial Auditor came in with a report that said there was nothing wrong with everything 80,000 people had done, what

would you think?" They just said, "We damn well would not believe it." We are talking a little about human nature in the whole thing.

We set the rules, then. There were some abuses brought out. However, they were brought out, whether it was through brown envelopes, the Provincial Auditor, the public accounts committee—I am not much in favour of brown envelopes—

Mr. Elston: Do you buy those, by the way?

Hon. Mr. McCague: As Chairman of Management Board, I do value the contribution of the public accounts committee and the Provincial Auditor, because it helps us in our work. If there is some abuse found, we can change our policy, or whatever.

The accountability study which is now under way—the Premier gave an answer in the House in November 1983 that said, "Sure, maybe our systems are not pure." Any organization looks at its controls at least every 10 years, if it is on its toes. That is exactly what we are doing.

I have no idea what the study will say in areas such as this, but it is not an area in which we are directly responsible. I know we are in a political arena, but you understand as well as I do why everything happens the way it does as far as Management Board is concerned, with accountability.

Mr. Philip: We tried to get you to use orange envelopes instead of brown envelopes. Unfortunately, civil servants who were walking around the corridors with the orange envelopes seemed to be suspect for some reason or another, so they discontinued the practice.

Mr. Elston: The other question involves—and I mentioned it briefly the other day as well—situations where a ministry or a number of ministries sponsor outside organizations doing studies, as you know. At times, it seems to me that there are a goodly number of former ministry employees or staff members who make bids on these things.

It concerns me no end that sometimes there is, or may be, inside information—at least contacts—as to what might be available for tendering, or how much may be available for the sponsorship of these studies. I am wondering if you have had any guidelines established for the types of contact that can be made between present and former ministry employees.

For instance, in my case as a member, I have been told by several people that any time I call ministry locations, whether they be district, regional or whatever, I am catalogued and so then is that contact. It could be myself or Mr. Kolyn or Mr. Philip. There is an indication in

writing that I made contact on a particular subject at that time.

Have you a policy in which contacts between former ministry employees and their former employer are also catalogued, or is there a guideline so we could follow the interventions of those people, for instance, in the tendering processes for government-sponsored studies?

It would be interesting if we could find out the names and addresses of the people who are making the contacts about programs and then correlate that with the winners of tenders. This has been expressed to me as a concern in some areas; that former government employees are doing so well in the consulting business and in tendering for some of these studies.

Hon. Mr. McCague: I will answer part of it then turn it over to Mr. Carman, if I could. The issue of retirements and consulting concerns us almost immediately. We developed a policy on that and, like the one on consulting services we had ready to adopt a few months ago, we referred it to the people doing the accountability study.

The second part of what you are saying about contact with people is personally foreign to me. Mr. Carman may want to elaborate on that.

Mr. Chairman: Before you do that, Mr. Carman, I just want to remind the committee we are scheduled to stop at 1 o'clock. We would then be short 25 minutes of our estimates time.

I have consulted with Mr. Philip, and he has one question that would take three minutes. He knows the minister cannot answer it but he would like to put it on the record, and possibly you could get back to him later, if the committee agrees.

Mr. Philip: I know the minister will answer later. I guess I should not indicate he could do so in the fullness of time.

Mr. Chairman: I am just trying to go by what you said in the note. I was just wondering if the members would agree to give Mr. Philip a few minutes now.

Mr. Philip: It would only take me a minute and a half to read this.

Mr. Chairman: Excuse me; Mr. Elston, will you agree?

Mr. Elston: Certainly. You are just going to let him read it in and then I will get some more elaboration.

Mr. Chairman: If we have the time, we will try. We will let him read his question.

Mr. Philip: Thank you. It concerns contracts. I am going to provide the minister with details.

No doubt, he will want to consult with Mr. Pope and probably get back to us with a written reply.

As you know, there is a forest industry in southern Ontario. In the past, the government-owned wood lots have been contracted to Ontario Paper for five-year periods at a fixed payment rate, subject to adjustments by a suitable Statistics Canada indicator. The person who brought this to my attention is aware that during recent timber contracts and in 1984, a private company, Giant Timber Industries Ltd., has developed a small-log system and was utilizing more small logs from southern Ontario than Ontario Paper.

Due to the fact that this company had no government contract, it was purchasing raw material from private tracts and bidding on government tracts turned down by Ontario Paper and paying much higher stumpage rates. In the light of the aforementioned facts, Giant Timber Industries Ltd. was approached by the Ministry of Natural Resources, who presented it and another company with a document entitled "Five-year agreement forest timber sales contract." They also stated to the company at the time that in the light of the fact that Ontario Paper was not "the only game in town," the next five-year agreement would be tendered.

Ministry representatives were then asked if this was simply a vehicle to force Ontario Paper to pay higher prices and stop their practice of turning down wood lots that did not allow them to keep their labour costs static. Assurances were given that this was not the case and there would be, indeed, a bona fide tender.

After some time passed, Giant Timber Industries Ltd. contacted the ministry in regard to the tender and were informed that the contract was formulated with Ontario Paper and that there would be no tender.

Among the questions, then, that we would certainly want answered is: Does the ministry condone this manner of negotiations and should a large corporate interest be served at all costs?

Due to the fact that the five-year agreement included a private wood clause, which until the present time has been the major source of raw material for the private sector, what is the minister's response in regard to the following questions?

Ontario Paper pays for its raw material in the following manner: After it has been cut and piled, it is scaled and billed on a cubic basis. In other words, they pay for exactly what they get.

The private sector, on the other hand, bids on ministry sales that have been given a ministryestimated cubic-metre count that almost always, they claim, is not accurate and seldom in favour of the successful bidder. Moneys are all payable

up front before the wood is cut.

No one is questioning the morality of this practice. However, can the ministry give some indication that, when Ontario Paper bids, all the conditions will be met in the same way and that no special conditions will apply to that one company only?

Also, when private land owners approach the minister for commercial thinnings, are they to be given more than one name so they will be able to receive competitive bids and so their best interests will be served by that kind of competition? I am not aware, yet, of whether the contract is officially sealed. Has the contract been promised? What is the state of that contract?

Those are some of the questions that you, as Chairman of Management Board, the Minister of Natural Resources (Mr. Pope) and possibly the Provincial Auditor should look into. I leave it

with you.

Hon. Mr. McCague: Could you tell me what your specific question is to me?

Mr. Philip: My specific question is that as the Chairman of Management Board, with concern for the letting of contracts, would you approach that particular ministry with this particular problem and say there have been some concerns expressed? Perhaps either you or the Minister of Natural Resources can get back to us.

Hon. Mr. McCague: I am sure it would be he who would answer. I do not think that contract would come to us at all. Have you anything that I could give to him or do we just take it from the record?

Mr. Philip: Take it from the record. I have just received the information last night and this provided an opportunity of getting it on the record. I am hoping that either you or the minister directly involved will respond to it.

Hon. Mr. McCague: I am sure it will be the minister.

Mr. Chairman: Thank you, gentlemen.

Item 1 agreed to.

Items 2 to 4, inclusive, agreed to.

Vote 501 agreed to.

Votes 502 to 505, inclusive, agreed to.

Mr. Chairman: This completes consideration of the estimates of the Management Board of Cabinet. We want to thank you and your staff for being with us and we look forward to your estimates next year.

Hon. Mr. McCague: I would like to thank my two questioners, Mr. Philip and Mr. Elston. There might have been one from someone else, but if there was I do not recall.

Mr. Chairman: Thank you. The meeting is adjourned.

The committee adjourned at 1:04 p.m.

CONTENTS

Friday, November 30, 1984

Ministry administration program:

 Main office
 J-553

 Adjournment
 J-568

SPEAKERS IN THIS ISSUE

Elston, M. J. (Huron-Bruce L)

Kolyn, A.; Chairman (Lakeshore PC)

MacQuarrie, R. W. (Carleton East PC)

McCague, Hon. G. R., Chairman, Management Board of Cabinet (Dufferin-Simcoe PC)

Mitchell, R. C. (Carleton PC)

Philip, E. T. (Etobicoke NDP)

From Management Board of Cabinet:

Carman, R. D., Secretary of the Management Board

Hansen, J., Executive Secretary, Senior Appointments and Compensation, Civil Service Commission

McGeown, D., Executive Co-ordinator, Information Technology Division

McLellan, E., Chairman, Civil Service Commission

Scott, J. R., Assistant Deputy Minister, Staff Relations Division, Civil Service Commission









